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UNIVERSITY OF ILLINOIS

INSTITUTE OF LABOR AND INDUSTRIAL RELATIONS

THE AGREED BILL PROCESS IN THE FORMATION OF ILLINOIS UNEMPLOYMENT COMPENSATION LEGISLATION

by

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PREFACE

One of the principal functions of the Institute of Labor and Industrial Relations is to perform research in the critical problems of the labor field in order to increase society's understanding of these problems and its ability to deal with them more effectively and intelligently. This study is concerned with a segment of the vital area of the role of government in labor affairs, notably with the manner in which labor laws are enacted and changed. The present volume deals with only one type of law -- unemployment compensation. Subsequent studies will deal with other laws and other types of government action in this field.

The study which is here presented has a number of unique features that warrant the careful attention not only of scholars but also of people concerned with labor legislation from the point of view of industry, labor unions, and the public at large. As far as is known, it is the first detailed description and analysis of the so-called "agreed bill" process whereby the representatives of management and labor, the parties primarily concerned with the legislation, seek to work out through negotiation a pattern for legislative action. The state of Illinois has had many years of experience with this rather uncommon procedure and this experience merits careful appraisal. Obviously, a final evaluation of the "agreed bill" process cannot be made until many other studies of similar and contrasting methods of enacting labor legislation have been concluded.

The study would have been impossible of achievement without the extended cooperation of a large number of important representatives of labor unions, management, and the general public in the state of Illinois. These people gave freely of their time, knowledge, and insights. Most of the basic data, otherwise not available, were derived from interviews with them. A list of these people follows.

The volume was prepared under the general supervision of Milton Derber, Coordinator or Research. Professor Murray Edelman participated in the original planning of the study and provided helpful advice throughout its development. Other members of the staff of the Institute and the University who contributed valuable ideas and suggestions were Professors Phillips L. Garman, Charles B. Hagan, and Rubin G. Cohn.

W. Ellison Chalmers
Director

PRINCIPAL INTERVIEWS

Thaddeus V. Adesko	State Senator
Samuel Bernstein	Commissioner of Placement and Unemployment Compensation
Henry Bolz	General Manager, Decatur Association of Commerce
Abraham Brussell	General Counsel, Illinois State Industrial Union Council
Walker Butler	State Senator
Bertram J. Cahn	Chairman, Unemployment Compensation Advisory Board
Daniel D. Carmell	General Counsel, Illinois State Federation of Labor
James L. Donnelly	Executive Vice-President, Illinois Manufacturers' Association
Louis Dumond	Manager, Legislative Department Chicago Association of Commerce
Paul F. Gorby	Chairman, Social Security Committee, Illinois Chamber of Commerce
Kermit Johnson	Manager, Social Security Department, Illinois Chamber of Commerce
Maurice McElligott	Secretary-Treasurer, Illinois State Industrial Union Council
Joseph T. Meek	Executive Secretary, Illinois Federation of Retail Associations
R. G. Soderstrom	President, Illinois State Federation of Labor
Royal A. Stipes	President, Illinois State Chamber of Commerce
George H. Tompkins	Secretary, Associated Employers of Illinois
Bernice T. Van der Vries	State Representative

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FOREWORD

The labor law of a state "differs from most law in that it is not merely an evolution of the customary law of a community, but is a definite attempt by the community to solve...an acute social problem." A study of labor law thus serves as a direct method of investigating the relationship between government and two organized, politically powerful groups, labor and employers, as they attack a social problem.

In the vast amount of material and discussion on labor legislation, comparatively little attention has been paid to the process by which such legislation has been enacted. The present study is an attempt to explore the proposition that the method of enactment may have considerable importance with respect to the content of the legislation and administrative and judicial policy-making. At the same time, it is designed to offer an opportunity to focus on the role of government in meeting a social need growing out of the labor-management relationship.

Writers in the field and practitioners of labor-management relations have from time to time suggested that labor legislation be a matter of agreement between the parties concerned. Recently, Eric Johnston, former President of the United States Chamber of Commerce, has urged the use of the agreed bill in formulating labor legislation. This process---wherein representatives of labor and management seek to agree on the terms of legislation prior to formal legislative enactment---has been utilized in various fields of labor legislation in Illinois since 1911. The past use of the process in this state furnishes an opportunity to consider the conditions under which it is feasible to use an agreed bill, its adaptability to the needs

and problems of labor, of employers, of the legislature, its growth or deterioration and the reasons therefor. Further, there is an attempt to answer such questions as (a) what level of participants and what numbers seem to give the best result, (b) what is the disposition of the legislature to enact the recommendations contained in the agreement, (c) what motives lead to a statutory demand for an agreed bill through an advisory board or a similar agency?

Unemployment compensation legislation is a particularly good field in which to undertake a pilot study of these problems. The Federal Social Security Act of 1935 represented a governmental attempt to meet several kinds of social needs. The unemployment compensation titles imposed a virtual obligation on the individual states to enact unemployment compensation programs. Beyond that, however, the Federal act seemed to leave the states almost complete freedom in determining the specific content of the legislation. This freedom extends to such important matters as breadth of coverage, benefit formulae, conditions of eligibility, reasons for disqualification, length of waiting period, disability benefits and others. Thus, major areas of policy must be decided by the states. Illinois enacted an Unemployment Compensation Act in 1937, and that act has been amended on a number of occasions since then.

Years before unemployment compensation became a matter of public policy discussion in the state of Illinois, considerable experience had been achieved with the use of joint conferences as a method of developing labor legislation. A brief recapitulation of this experience may help to set the stage for a consideration of the factory involved in the development and relative effectiveness of the agreed bill process in the unemployment compensation field.

Just before the turn of the twentieth century, Illinois mining laws were described by the House of Representatives' Committee on Mines and Mining as uncertain, confusing, and frequently unintelligible. The Committee, moreover, stated that the work involved in revising and modernizing the laws was of such scope and character as to be beyond the range of the General Assembly because the amount of time and study required would be prohibitive.[1] The Committee recommended the appointment of a Joint Commission on Revision of Mining Laws with full power to compile and revise all laws relating to mining. Although such a Commission was not then appointed, the State Bureau of Labor Statistics was charged with this duty. In the course of time, "the Bureau invited representatives of the operators and miners to confer with it and offer such suggestions as they might see fit, the purpose being to present to the General Assembly a bill having the approval and support of both miners and operators as well as of the Bureau itself, thereby securing its passage without opposition."[2] This bill was subsequently approved by the legislature without a dissenting vote.

Partially as a consequence of this success, joint agreements between Illinois miners and operators during the first years of the century stipulated that neither party should introduce bills affecting the industry without previously consulting with the other. Ultimately, this was revised so as to provide for the statutory existence of a Mining Investigation Commission. At the time of the establishment of the Commission, it was agreed that all mining bills then pending or which might later be introduced, be referred to this Commission. Nearly all coal-mining legislation in

1. The discussion which follows is based, in large measure, on the work of Earl R. Beckner, A History of Labor Legislation in Illinois (1929), particularly pp. 294 ff., and pp. 462 ff.

2. Ibid., p. 294.

Illinois since 1909 has been enacted upon recommendation by the Mining Investigation Commission which has been established on a tripartite basis.

"Laws passed in this way," Beckner notes, "rarely come up to the highest possible theoretical standard, but they are likely to approximate as high standards as the industry can bear. Even more important, however, is the fact that when both sides are in agreement and actively support the bills agreed upon, both assume the obligation to abide by them and secure their proper enforcement, and the way is cleared for improvements when business conditions are favorable."[3]

Perhaps influenced by the success of the Mining Investigation Commission, the Industrial Board, a three member non-partisan board, began in 1915 to ask employers and employees to reach agreements concerning amendments to the Workmen's Compensation Act. From that date until the present, amendments to that law, with limited exceptions, have been agreed upon in advance and have been passed by the legislature without question.

There is probably considerable importance in a series of experiences in the workmen's compensation field around 1921 and thereafter. President John H. Walker of the Illinois State Federation of Labor discussed the use of the agreed conference at the 1921 convention:

> I say to you frankly that there has never been a time since we started trying to get a compensation law enacted that if we hadn't got an agreement with the employers affected by it we would have been unable to get a single line through that they were opposed to...The ambulance chasing, crooked politicians that have no human feeling and human decency in the legislature would not give the widows and orphans as much as the employers were willing to give them.[4]

Nonetheless, Walker also indicated to that same convention that he was becoming increasingly pessimistic about the prospect of securing

3. Ibid., p. 300.

4. Quoted in ibid., p. 467.

desirable legislation through the agreed method. He recommended that the State Federation revise its tactics on this particular matter and present its case directly to the legislature. Accordingly, in 1923, joint conferences were not held. Instead, labor forces drew up a measure which was introduced by Representative Soderstrom who later became President of the State Federation. This bill passed the House but the Senate committee to which it was referred was never called together for a hearing and the bill was lost. In 1927, the representatives of the State Federation again met with employer representatives, and an agreed bill was worked out which passed with almost no opposition. Thereafter, labor has depended on the agreed method to secure improvements in the workmen's compensation law.

The experiences in mining and workmen's compensation thus indicate that the use of the agreed bill technique was well known prior to the development of unemployment compensation legislation in the state. Indeed, by 1937 when unemployment compensation first became an important issue here, there had been more than twenty years of experience with both an explicit statutory demand for an agreed bill as in mining, and with informal arrangements leading to agreement. It is noted elsewhere in this study, furthermore, that there was similar experience in the Occupational Diseases field in 1936 when independent labor action, again sponsored by Soderstrom, was defeated in the legislature.

THE NATURE OF THE INQUIRY

For a long period of time, labor and industry leaders in both the state and nation opposed the enactment of compulsory unemployment compensation legislation. Perhaps as a consequence of depression experience, labor changed its stand independently. The opposition of industry to state legislation necessarily evaporated with passage of the Social Security Act. The tax-offset device established a situation wherein, if no law were passed in Illinois in 1937, the employers of the state would have had to pay into the Federal Treasury, with no hope of direct benefit to employees, a total of about $60,000,000 during 1938. By 1937, then, unemployment compensation legislation for Illinois was removed from the area of debate and put in the area of necessary economic policy and experimentation.

Starting, therefore, with the premise that the underlying question of public policy with regard to the enactment of a law has been decided in this field in Illinois, this investigation hypothesized that the content of the legislation will be conditioned by the method of enactment---the agreed bill process.

The reasoning which resulted in the formation of this hypothesis for testing in the research may be summarized as follows. Initial consideration was given to possible reasons why labor and industry may agree on a legislative proposal. Thereafter, one of those reasons which seemed most in accord with known facts was selected, and related specifically to the state unemployment compensation picture. Thus, there would seem to be three outstanding possible reasons why labor and industry may agree on a legislative proposal:

1. Because they believe it is to their mutual advantage.

2. Because it may be to the political advantage of one party to agree in connection with one issue in order to have a strategic advantage on other issues.

3. Because one party may consider that the legislation is going through anyway, and that as the weaker party, it is wiser to influence the terms of the legislation by agreement than to wage a hopeless fight against it.

The first of these propositions appeared to be of limited applicability on its face. Given an area like unemployment compensation where public policy of a positive character is inevitable, it is to the mutual advantage of both sides to agree only to sponsor some legislation; it is not to the advantage of management to agree in the abstract to a higher benefit rate rather than a lower rate, nor is it to the advantage of labor to agree to more rather than fewer disqualifications, unless agreement is somehow made attractive. Although agreement on technical specifics, like reporting, may be to the mutual advantage of the parties involved, it would not appear that agreement on substantive specifics is of a similar character. Some clarification may be achieved by noting that "mutual advantage" is by itself too inconclusive a term to serve as an explanation for agreement on anything except the fact that each side would regard some kind of law as beneficial. The basic problem of explaining why agreement on specifics is mutually advantageous remained.

Nor did the second proposition--that it may be to the political advantage of one side or the other to agree in connection with one issue in order to have a strategic advantage on other issues---serve as a satisfactory explanation. This suggests the notion only of agreeing not to disagree, the notion of compromise. Again, it lacks positive aspects in that the party

which agrees to something it opposes is unlikely to take practical political action to urge enactment unless the quid pro quo is of extraordinary value. It will rather limit itself, for cause, to taking no political action to oppose enactment.

The hypothesis that the content of legislation may be conditioned by the method of enactment may be rephrased in terms of the third proposition. It may be that Illinois industry leaders, on the basis of their perception of social and political trends consider long-term liberalization of the unemployment insurance program inevitable. Consequently, they agree to legislation so as to have some influence over its terms---particularly so as to insure gradual adjustment, and minimization of costs to the employer. Posing this hypothesis necessarily requires a companion hypothesis seeking to explain why labor leaders agree to legislation in view of the supposed inevitability of liberalization. A dual answer is suggested, both phases of which involve obtaining advantages in the shortest possible time. The first and more general phase has to do with the nature of labor legislation in a democracy. Perhaps no other area of public policy is productive of so sharp a cleavage between clearly defined powerful interests. Left to its own devices, a legislative body will enact protective or restrictive labor legislation only when strong interests are mobilized on one side or the other. A mobilization of this type automatically produces a counter-mobilization. The natural disposition of the legislator---one of whose principal aims is re-election---is to look with favor on any device that permits him to avoid alienating any potent group whenever possible. Thus, the absence of agreement, from labor's point of view, may lead to the maintenance of the status quo for a longer period than is deemed desirable in that it is somehow more difficult to attack "no policy" than a specific enactment.

The second phase of the explanation as to why labor agrees involves the particular nature of the Illinois Constitution: "and no bill shall become a law without the concurrence of a majority of the members elected to each house." This constitutional majority requirement further enhances the possibility that, without agreement, labor's goals may be delayed. The need for a constitutional majority means that absenteeism or failure to vote for any reason whatever is the equivalent of a negative vote. If labor is on the offensive in this field, the requirement can work only to labor's detriment. Agreement, including as it does active political pressure by employers would tend to lessen appreciably the difficulties of the constitutional majority requirement.

The possibility that agreement is basically a function of perception of long-run trends and short-run obstacles thereto would seem to be a more satisfactory tentative explanation of the agreed process than either of the others advanced, and, therefore, a more proper hypothesis. It succeeds where the more simplified "mutual advantage" explanation fails in explaining agreement on specifics. Moreover, it succeeds more generally in explaining why agreement is followed by positive political action rather than passive acquiescence. The validity or invalidity of this hypothesis will be tested by the research.

2.

Flowing from the hypothesis regarding the reason for agreed bills are a series of questions dealing with the substance and mechanics of agreement. Is there a plausible explanation of the fact that disability unemployment compensation has, thus far at least, not been a subject on which agreement could be reached? Are there, within the field of unemployment compensation itself, some questions that are not within the scope of an agreed

bill? In this field, it is hypothesized that benefit amount and duration, eligibility and disqualification, and waiting periods are particularly flexible and are subjects of short-run disagreement rather than long-run opposition; these are issues that tend to be settled through the agreed bill. Contrariwise, assumption of costs, merit rating provisions, disability unemployment compensation are less flexible and matters of long-run disagreement and do not lend themselves to an agreed bill. Further, it is hypothesized that both sets of provisions are dynamic rather than static. The issues which lend themselves to the agreed procedure tend to expand or contract respectively as one group or the other concludes that long-run achievement is inevitable or that maintenance of the status quo is inevitable barring an unexpected organization of political pressures.

In talking loosely of "labor" and "employer" agreement, it is not meant to suggest that either of these groups is in any sense a monolithic force. In Illinois, five major employer organizations concern themselves with legislative activity,[1] while the state organizations of the two major national labor unions are similarly concerned, as are both the United and Progressive Mine Workers. It may be argued that the potential success of an agreed bill tends to be enhanced as the employer associations and labor associations agree among themselves on the dual questions of long-run inevitability and short-run goals.[2] Inter-association agreement, in turn, will be maximized when a single association is able to take clear leadership, and other members of the group will follow that leadership. In concrete

1. The so-called "Big Five" include the Illinois Manufacturers' Association, Illinois State Chamber of Commerce, Illinois Federation of Retail Associations, Associated Employers of Illinois, and the Chicago Association of Commerce and Industry.

2. For purposes of convenience, the word "association" is used to refer to an employer or labor organization, while the word "group" is used to refer to a combination of associations joined together for political purposes.

terms, one burden of this investigation is to demonstrate whether the chances for agreement are heightened when, for example, the Illinois Manufacturers' Association develops an unemployment compensation program to which the other employer associations subscribe. On the other hand, are the chances for agreement lessened when the IMA and the Illinois State Chamber of Commerce each develop unemployment compensation programs?

The leadership question is further complicated by the pressing need to find a single individual who can serve as a group spokesman in negotiations. Do the chances for agreement tend to increase when each group is represented by a spokesman with experience in negotiations and in legislative affairs, with prestige among all the associations in the group, with technical competence, and with authority to come to a conclusive agreement? Is continuity in leadership an important element in obtaining agreement? The Illinois Civil Administrative Code provides for the establishment of a Board of Unemployment Compensation and Free Employment Office Advisors on a tripartite basis--labor, employer, and public representation. It would seem important to seek confirmation of the possibility that the Advisory Board was deliberately established to provide statutory pressure for agreement. If this is indeed a valid hypothesis, has the Advisory Board device been an important mechanism in securing agreement? Has it produced experienced negotiators? Is agreement in any way related to the existence of the Advisory Board, or is the Board a non-essential convenience in presenting the results of agreement?

3.

Up to this point, the focus has been on labor and industry as parties to agreement. The use of an agreed bill technique, however, necessarily raises a number of political questions involving the legislature and the political party in power in the state. A legislator seeks to make

law that conforms to the needs of the groups affected by the law, but also seeks to make law that is in his judgment in the general public interest. It is assumed, moreover, that a legislator is jealous of his prerogatives and holds to the idea that it is his function to declare public policy. The legislative dilemma becomes apparent. A sense of duty incidental to the attainment of formal power conflicts with a desire to avoid alienating groups whose antipathy may remove him from power, and whose opposition may raise some question as to whether he is acting in the public interest. Possible solutions are to function irrespective of any possible antipathy, to make a judgment as to the most potent group and minimize the possible antipathy of that group, or, most desirably, to retain public responsibility and yet avoid antagonisms. In terms of labor legislation, the first of these solutions would demand that the legislator come to an independent value judgment on the merits of the law and proposed amendments and vote accordingly. In point of practical fact, this is possible only for the legislator who has reached the "elder statesman" stage of eminence or for whom re-election is a matter of certainty or indifference. The second solution---to make a judgment as to the most potent group and minimize the antipathy of that group ---tags a legislator as a spokesman for a particular interest and serves to lessen his prestige. Moreover, it is available only to the legislator who is willing to be charged with foregoing his sense of public responsibility. This obtains despite the fact that there need be nothing immoral in being swayed by pressures.

To retain a sense of public responsibility and yet develop the widest possible support is plainly the most difficult and yet the most desirable answer from a practical point of view. Nonetheless, it can be achieved if the groups involved establish an identity of short-run goals

which are not inconsistent with the short-run goals of any other formal group. Thus, the legislator can resolve the dilemma, rather than simply escape from it, by injecting himself as a party to the agreement. A meaningful test of this idea would be to determine whether the legislative path of an agreed bill tends to be easier when there has been legislative participation in the agreement than when the agreement is reached without legislative sponsorship.

An hypothesis concerning the role of the political party in the process requires only a slight modification of the tentative generalization on the role of the legislature. The party, as a non-cohesive body interested principally in the achievement of power, is motivated by the non-alienation concept together with a need to be able to point to specific achievement. An agreed bill, therefore, would seem to be of value automatically to the party in power for it offers an opportunity to claim specific achievement for antithetical groups. Moreover, the minority party may not challenge the results for a challenge can only result in alienating both labor and employers. It is suggested, then, that the governor as leader of his party will exert all possible influence in the direction of agreement, and will claim the results to be a party achievement.

Finally, it is hypothesized that the administrator who is concerned with carrying out legislative policy will seek to maximize his role in the formulation of that policy. Management and labor leaders, accustomed to close contact with the administrator, would seem likely to utilize his expertise in planning and discussing changes in the law. The sensitive relationship that exists between an administrator and a legislative body is not duplicated necessarily in the relationship between the administrator and the parties affected. In sum, the question is raised as to whether the

unemployment compensation administrator seeks agreement because he considers that his influence over policy will be greater as a consequence of an agreed bill than as a consequence of enactment on a non-agreed basis.

4.

In seeking to develop the hypotheses and framework presented above, an attempt has been made to examine the pre-legislative and legislative histories of all unemployment compensation legislation in Illinois. Because legislative reporting in the state includes no record of debates, the formal record offers little more than an indication of the diversity of bills introduced and the vote on those measures which reached the amendment or passage roll call stage. Labor and industry convention proceedings have been utilized in an attempt to determine the formal origin of group demands in this field, while the expressed attitudes of other political pressures were gathered in an effort to establish a general environment within which agreement had to exist if it were to exist at all. Information gathered in this fashion was used to formulate questions used in interviewing labor and industry leaders who had participated in agreed bill conferences and administrative and legislative personnel interested in the process in this field.

Methodological problems of research were limited almost exclusively to questions of interviewing. Because of the semi-public nature of the agreed bill process, the identification of actual participants was sometimes an elusive process. The labor press and organs of industry associations tended to emphasize the role of the Advisory Board as the formal device for presenting agreement while referring more vaguely to the participation of "labor and industry leaders." Although two names---those of Victor Olander,

Secretary-Treasurer of the Illinois State Federation of Labor and W. J. MacPherson, Vice-President of the Public Service Company of Northern Illinois---appeared with increasing frequency, Olander and MacPherson had both died shortly before the study was undertaken. A master list of some fifty-five names was drawn up including all labor and industry people whose names had been linked to unemployment compensation policy by either the Illinois Manufactueres' Association's "Industrial Review," "The Springfield Scene" published by the Illinois State Chamber of Commerce, or the Illinois State Federation of Labor's "Weekly News Letter." To these were added the names of administrative officials in the field, and the names of legislative sponsors of unemployment compensation legislation. In undertaking a "test run" of interviewees, one representative of labor, one representative of industry, and the Commissioner of Unemployment Compensation were interviewed.

At this stage as well as at a later one, interviewees were used as both informants and respondents. Test interviewees, however, were not subjected to as lengthy a schedule of open-end questions as were later interviewees principally because hypotheses were not clearly formulated until after the "test run." During this initial stage of interviewing, the point of concentration was on learning the nature and structure of the participating associations and the relationship between the Advisory Board and the agreed process. Test interviewees were used as respondents chiefly to aid in setting up a basic hypothesis as to the reasons for the use of so uncommon a political device as the agreed bill process.

Some twenty-five additional interviews with representatives of industry's "Big Five," the State C.I.O. and the State Federation of Labor, and members of the legislature were undertaken. In these cases, the informant

function was diminished in that the participating associations and the mechanics of meeting were known. It was possible, therefore, to emphasize in the case of labor and industry people the questions of practicality and suitability to needs and goals together with the question of determining those needs and goals. Thus, a typical area of investigation would have to do with the reasons for the fact that benefit amounts have been subjects of agreement while merit rating provisions seemingly have been beyond the scope of agreed bills. It should be noted that interviewees functioning either as respondents or informants showed no reticence in offering either information or opinion, and in only perhaps three or four cases were isolated statements made "off the record."

INITIAL AGREEMENT AND ENACTMENT

Enactment of state or federal unemployment compensation legislation did not become a practical possibility until the effects of the "Great Depression" made it apparent that private action would not be an adequate solution to large scale unemployment. Thus, the decade of the 30's seems to be a realistic one in which to initiate an investigation of the background forces operating in this field.[1]

From 1931 through the special sessions of the Illinois legislature of 1936, nineteen bills were introduced dealing with unemployment compensation. The largest number of these, nine, was introduced in the 1933 session following Wisconsin's enactment of such a law, and following the American Federation of Labor Cincinnati convention of 1932 when the Federation reversed its earlier oppostition to a system of compulsory unemployment insurance. Six such bills were offered in the first special session of 1935 following passage of the Federal Social Security Act. Of the total of nineteen, four bills were advanced as far as second reading, but only two were called to the order of third reading and further consideration was ordered postponed for both of these. Only once prior to 1937 did the unemployment insurance question reach the third reading or record vote stage in the Illinois legislature.

Labor forces waged their first all-out fight for an unemployment insurance law in the first special session of the 59th General Assembly meeting in 1935. The vehicle for labor action was Senate Bill 10 sponsored

1. For a review of the development of the unemployment insurance system in the United States, see Harry Malisoff, "The Emergence of Unemployment Compensation," Political Science Quarterly, 1939, pp. 237-258; 391-420; 577-599.

by Senator John M. Lee of Chicago who had sponsored and was to continue to sponsor many labor measures. The provisions of S.B. 10 represented a conscious attempt by labor to propose a realistic bill, a bill that did not incorporate the features of unemployment compensation most repugnant to industry. Thus, for example, the bill provided that benefits were to be denied persons unemployed through a strike or lockout.[2] In an attempt to meet industry's insistence that the Social Security Act was unconstitutional, the bill was to be dependent on the continued operation of the Federal act.

Employer forces, however, were not willing to accept any state unemployment compensation law, even one dependent on the Federal law. No counter-proposal representing the views of organized employers was offered because of the latter's fear that even if the Federal act were struck down by the Supreme Court once a state law had been enacted it would represent acceptance of the unemployment insurance principle--acceptance which industry was not willing to grant unless and until final Court action compelled a reappraisal of the state situation. While S.B. 10 was pending, James L. Donnelly, Executive Vice-President of the Illinois Manufacturers' Association, addressed the annual meeting of the National Industrial Council on this subject. Donnelly, who spoke for the dominant Illinois employer association, advanced the three-fold argument that the Social Security Act was unconstitutional insofar as it was designed to force states to enact unemployment compensation laws, that once adopted, state acts would continue even if the Federal act were invalidated, and that the specific content of initial state law was not to be considered a persuasive argument for

2. Benefit rates were set at 50% of the weekly wage to a maximum of $15, and a minimum of $5 for a maximum duration of 20 weeks in any 52 week period. Claimants were required to have worked 20 or 36 weeks during the one or two years, respectively, preceding an application for benefits. A three week waiting period was stipulated. Employer contributions of 3% were to begin in 1938 together with employee contributions of .5%. Agricultural labor and sundry other groups were exempted from the law which was made optional for employers of less than eight.

adoption because any such law would subsequently be amended to meet political expediency.[3]

There seems little doubt that organized Illinois industry was convinced of the unconstitutionality and general unsound premise of the Federal statute,[4] and that it would appose a state law as long as possible. In this respect, Donnelly's suggestion that any state law enacted would be amended to meet political expediency is most illuminating because it suggests a fear that state law would be amended to the future disadvantage of industry. The Illinois Manufacturers' Association took a very active part in stimulating opposition to the proposed legislation.

> We distributed over 100,000 pamphlets among farmers, retailers, wholesalers, women's clubs and other groups throughout the State... We also wrote many thousands of individual letters to leaders of farm groups and leaders in other walks of life throughout the State. What appeared to be a hopeless battle at the beginning soon developed into a formidable controversy. When the public began to understand the real import of the legislation and particularly the tremendous additional tax load that the bills would impose they protested actively and vigorously to the members of the Illinois General Assembly.
>
> Probably never before did the staff of the Illinois Manufacturers' Association receive such aggressive, generous cooperation from its members. These measures were up for consideration at Springfield for several months. During the entire period, executives of manufacturing firms made the trip to Springfield almost every week in large numbers. The presence of these executives in Springfield, their appearance before committees in opposition to these bills, their contacts with legislators on the grounds, were the strongest factors in the defeat of these bills.[5]

When S.B. 10 came up in the Senate for third reading, it received only seven votes, whereas twenty-six were required for passage. On the basis of this experience, organized labor concluded that, at the least, sustaining or the Federal act was a prerequisite to adoption of any kind

3. Industrial Review, Vol. IX, No. 104 (January, 1936), p. 12.
4. See ibid., No. 101 (May, 1935), p. 1.
5. Ibid., No. 106 (April, 1936), p. 2.

of Illinois unemployment compensation law. Moreover, it served as an indication of the tremendous political strength at the command of the employer group.

In 1936, moreover, labor and industry were both given reason to consider the futility of any attempt to achieve legislative goals over the opposition of the other group. Immediately after the Illinois State Supreme Court declared the Occupational Diseases Act of 1911, as amended in 1923, unconstitutional,[6] both the employer group and the labor group introduced bills into the legislature. The measure sponsored by the Manufacturers' Association set up in a schedule about about thirty diseases as being unconditionally compensable. The bill was attacked by labor leaders who favored a complete coverage of all occupational diseases and condemned the "specific schedule" method of compensation.[7] This bill was defeated. Labor's bill, known as the Soderstrom bill, was denounced by the IMA because it was argued that if it were enacted the employers would be subjected to responsibility for all kinds of diseases which had no logical relation to the work in which the employees might be engaged. The Soderstrom bill was shelved by the Senate Judiciary Committee, and the state was left without any legislation on this subject.[8]

Both interested parties wanted the difficulties settled. Governor Horner thereupon named a joint committee representing the state administration, organized labor, and organized employers, and called upon this committee to endeavor to work out a solution to the problem. Seven months of intensive work were productive of agreed bills. The main issue in dispute remained

6. Vallat v. Radium Dial Co., 360 Ill. 407 (1935).

7. John A. McClure, "Occupational Disease Legislation in Illinois," (Master's Essay, University of Illinois, 1937), p. 14. The discussion of the occupational disease legislation experience of 1936 draws freely from this essay.

8. In the meantime, the Illinois Appellate Court held that a judgment filed under the Occupational Diseases law prior to the unconstitutional finding by the Supreme Court was vacated by that action despite prior filing and findings. Barnacki v. Crane Co., 284 Ill. App. 641.

of a schedule plan of coverage as opposed to general Coverage. After an agreement had been reached that the bill should be one of general coverage, there was very little actual clash. Remaining differences of opinion involved questions of language and expressions rather than disputes over substance. The agreed bills were presented to the Third Special Session of the 59th General Assembly where representatives of the manufacturers and of labor spoke in favor of the proposed legislation. The program was enacted by the legislature with almost no opposition.[9]

The willingness of the IMA to agree to legislation on occupational diseases despite its earlier opposition to a general coverage bill may be related to Vice-President Donnelly's statements on the unemployment compensation program. In the latter case, Donnelly viewed with alarm any state legislation passed prior to final federal coercive pressure because of the possibility of amendment. It was the hope of the IMA that unemployment compensation legislation could be kept completely off the state statute books. In the instant case, however, the IMA argued that the "probability of some legislation relating to this subject matter being enacted into law following such (Supreme Court) decision was entirely obvious. Therefore it was essential that this Committee take every precaution to see that any legislation enacted properly safeguard the interests of all concerned."[10]

The question of the desirability of state unemployment compensation legislation became an academic one on May 24, 1937 when the United States Supreme Court upheld the constitutionality of the Federal act.[11] Even before this action, however, active work on pending unemployment compensation bills had been inaugurated in and out in the Illinois legislature. Foreseeing impending Supreme Court action, Governor Horner had suggested

9. According to a labor observer, the coal mine operators reneged on the agreed bill. Nonetheless, Oliver Mount who served as industry spokesman in this field, continued to give his support to the bill, and held the operators in line. Some labor people offer this as an indication of the positive importance of agreement concluded between group representatives who have sufficient power and prestige to hold their factions in line.

10. Industrial Review, Vol. IX, No. 106 (April, 1936), p. 1.

11. Steward Machine Co. v. Davis, 301 U.S. 548.

early in the session that the appropriate legislative committees--the Senate Committee on Public Welfare and the House Committee on Insurance--each appoint subcommittees to meet in joint session with labor, industry, and administration personnel all to be selected by the Governor.[12] Although this group met on April 20, 27, and 30, 1937, there is no reason to believe that the IMA had modified its stand of opposition to state action without federal action. Without doubt, however, the IMA was anxious to be prepared with a state program in the event that the Court acted favorably.

The committee officially reported the results of its work to the legislative subcommittee on May 4, 1937 at which time the Supreme Court had not yet acted. Recommendations took the form of suggested changes in S.B. 273, an unemployment compensation bill then pending in the Public Welfare Committee of the Senate. The individuals comprising the conference agreed on striking out of S.B. 273 a provision for employee contributions to a UC system. Modifications were also agreed to on the question of pooling all funds collected as stipulated in S.B. 273. The members of the committee proposed an arrangement whereby 1/6 of all funds would go into a general pool, while remaining funds would be kept in individual employer

12. The joint labor-management committee had a membership of twenty-one. Leading industry spokesmen were Louis Leverone who held membership in the IMA, the Chicago Association of Commerce and the Illinois State Chamber of Commerce; Joseph C. Spiess of the Illinois Federation of Retail Associations and the State Chamber; Oliver Mount, of the State Chamber, who had been active in past agreements in occupational diseases legislation. Labor leaders on the committee included R. G. Soderstrom and Victor Olander of the Illinois State Federation of Labor, Thurlow Lewis of the United Mine Workers, Dennis McCarthy of the Railroad Brotherhoods and others. The state administration was represented by Peter Swanish of the State Department of Labor later named Commissioner of Unemployment Compensation; Samuel Bernstein of the Illinois Legislative Reference Bureau, later named rules and regulations officer for the Division of Unemployment Compensation and subsequently appointed Commissioner; Daniel D. Carnell, Assistant Attorney-General and later General Counsel for the Illinois State Federation of Labor. In addition, H. L. McCarthy, regional director of the Federal Social Security Board, and Walter F. Dodd, consultant for the State Chamber of Commerce were invited to participate in the work of the committee. Senator John Lee, who had sponsored earlier unsuccessful unemployment compensation legislation, served as chairman of the joint legislative subcommittee. All told, thirty-two persons were involved officially in the work of the committee.

reserve accounts which might be drawn upon to keep the pooled fund solvent. Although labor had opposed anything but a straight pool arrangement, it agreed to the change "in an effort to avoid delay which might make the passage of the bill impossible."[13]

The nature of industry participation in these preliminary activities is deserving of some attention. It appears that the "Big Five" were certainly not functioning in this instance as a cohesive body. According to the Secretary of one association,[14] the State Chamber of Commerce was relatively inactive at this time as was the Illinois Federation of Retail Associations which grew out of the Chamber. Thus, the chief employer groups responsible for activity were the Associated Employers of Illinois, the Chicago Association of Commerce and Industry, and the Illinois Manufacturers' Association. Little cohesion obtained between these three. It would appear that there was a much stronger feeling on the part of the IMA that the Federal act would fall than prevailed in the other two associations. Industry participation in the workings of the governor's committee was, in reality, limited participation. The IMA was in a dominant position and when it finally acted positively it was able to influence the terms of the agreement and of the law.

The legislative subcommittee had no sooner received the results of the conferences when David Clarke, general counsel of the IMA, made it plain that that organization was still not prepared to support a UC law. Clarke argued against the revised bill and repudiated the action of the employer representatives.[15] Probably because of the uncertainty as to

13. Illinois State Federation of Labor, News Letter, Vol. XXIII, No. 8 (May 22, 1937).
14. George H. Tompkins of the Associated Employers of Illinois in an interview, Chicago, March 17, 1950.
15. News Letter, Vol. XXIII, No. 6 (May 8, 1937).

whether or not an agreement obtained, hearings were held on May 18 on the revised bill which was now numbered S.B. 436. The latter had been formally introduced on May 12 after labor had threatened to introduce another measure if the results of the conferences were not formally introduced. The confusion surrounding the position of industry led to a practical arrangement wherein it was understood that S.B. 436 would be moved out of subcommittee without binding anyone or any group to any final position. The May 18 hearing was a consequence of this arrangement.

At that hearing, employer representatives took exception to a number of provisions in the revised bill and proposed weakening the partial pool plan. At this point, labor decided to press for elimination of any type of individual reserve scheme, an action that was almost certainly motivated by industry's apparent unwillingness to agree to the compromise arrangement. Labor strategy was to refrain from pressing for this change in the Senate, but to exert efforts to have the bill amended in the House. It is not unlikely, however, that sufficient industry opposition could have been developed to kill the bill completely had not the Supreme Court decision been handed down on May 24.

Labor and industry representatives took time to reappraise the situation in light of this crucial development. In the meantime, the measure passed the Senate. Court action strengthened the labor position immeasurably, for the IMA now held that "the adoption of a state measure by the Illinois General Assembly seemed imperative." The Association was immediately ready to cooperate in making "the proposal in Illinois as practicable and as economical as was feasible."[16] The IMA, however, felt no compulsion to accept the pooled fund idea which had now become a matter of great importance

16. Illinois Manufacturers' Association. "Review of Legislation Affecting Industry Considered at 60th General Assembly" (Chicago, 1937).

to labor. The Association's ability to develop a program rather than fall apart completely on the issue despite the eleventh hour change in its basic position was of considerable importance. An agreed bill was plainly the only device through which the pooled fund could be achieved. On the other hand, now that the IMA found it imperative to support adoption of a state law, it was interested in securing inclusion of a merit rating provision which would diminish individual employer contributions, in return for stability of employment. It was too late, however, in view of the advanced stage of the legislation to hope successfully to sponsor a merit rating provision independently.

Representatives of the Illinois State Federation of Labor and the Illinois Manufacturers' Association held a last minute conference and agreed on the terms of amendments to the pending bill. The employers agreed to "cease their fight for the individual employer reserve account fund," while labor agreed to offer no opposition to an operative merit rating system which would distinguish between employers having a low rate of unemployment as against those having a high rate. Further, the employers agreed to withdraw opposition to labor's demand for an increase of the number of benefit weeks from thirteen to sixteen.[17] On the basis of the evidence presented, it seems almost certain that the pooled fund, merit rating, and the sixteen week benefit period could not have been achieved in the 1937 law without a labor-management agreed bill.

The nature of the agreement was reported to the House of Representatives on June 16. Following Governor Horner's earlier suggestion, the proposals were put in the hands of Representative Adamowski, House majority floor leader. Adamowski indicated at this last minute that he could not, in

17. News Letter, Vol. XXIII, No. 12 (June 19, 1937).

good conscience, actively support the agreement because he opposed the pooled fund idea.[18] The agreement thereupon was sponsored by Representative Daley, a freshman legislator, who was successful in obtaining House approval with a minimum of opposition. Subsequently, the Senate concurred in the House amendments, and the bill was approved by the Governor on June 30, 1937.

18. Daniel D. Carnell, interview, Chicago, March 16, 1950.

PASSIVE AND ACTIVE LEGISLATIVE INTEREST: 1939 and 1941

1.

The workability of the agreed bill technique in 1937 in unemployment compensation helped to add strength to supporters of the process. Some leaders of industry felt that the use of the agreed bill permitted employer influence to be maximized in 1937 despite a complicated series of events which had caused internal disagreement and which, but for the agreed bill, might have resulted in a thoroughly unsatisfactory state law. The state administration, anxious for an unemployment compensation law in 1937 which would not antagonize any major interests, had seen it develop through the agreed bill. The environment seemed a receptive one for formalization of the agreed bill process in this field.

At the time of passage of the basic act in 1937, the legislature amended the Illinois Civil Administration Code so as to provide for the existence of a Board of Unemployment Compensation Advisors, the nine-man membership of which was to be equally divided between labor, employers, and the public. In September, 1938, the Board was activated under the chairmanship of Bertram J. Cahn, a director of the Illinois Manufacturers' Association, and an active member of the Chicago Association of Commerce, Illinois State Chamber of Commerce, and Associated Employers of Illinois.[1] At the time of his appointment, Cahn had had no particular interest in unemployment compensation. He consented to serve principally because of his friendship with Governor Horner. Cahn's understanding of the functions of the Advisory Board was that it would be helpful to the legislature for

1. Cahn was chairman of the Board and president of B. Kuppenheimer & Company, president of the Civic Federation, Bureau of Public Efficiency, a member of the Illinois Minimum Wage Advisory Board, president of the Chicago Crime Commission, and a member of the Economic Club of Chicago. Industrial Review, Vol. 10, No. 117 (June, 1938).

industry, labor, and public to join together and recommend amendments to the law.[2] There is evidence that suggests, however, that industry and labor leaders thought of the Advisory Board as more than a potentially "helpful" body to the legislature. Rather, it would appear that the Advisory Board was conceived of as an implicit statutory demand for agreed bills.[3]

A few months prior to the appointment of the Advisory Board, the industry group had established a new process in its unemployment compensation activities. It was the general goal of industry leaders to insure inter-association agreement in the field, and thereby present a stronger front vis-a-vis labor and the legislature. The technique devised to achieve this general goal was the setting-up of a broad Joint Technical Committee on Unemployment Compensation. Membership on the Joint Technical Committee was available to all interested employers. Indeed, its purpose was to gather the most extensive possible body of technical information on the basis of which policy decisions could be made. The policy determining unit was a separate body known as the Joint Executive Committee. Membership in the latter was restricted to executives of the five major employer organizations. Ultimate decisions on policy matters in unemployment compensation were to be made by this group. On the industry side, at least, the locus of power was formally vested in the Joint Executive Committee.[4]

2. Interview, Chicago, February 8, 1950.

3. It does not seem important to determine whether industry and labor really believed that there was such a statutory demand or whether they chose to accept this idea because of their satisfaction with the agreed process. In either case, both sides acted for a long period of time as if there was a statutory demand.

4. The IMA, at least, went even beyond the Advisory Board and the Joint Technical and Executive Committees. While these bodies were meeting separately, "the Illinois Manufacturers' Association gave attention to this subject through a Technical Committee representing the Illinois Manufacturers' Costs Association, through its Committee on Unemployment Compensation, through its Board of Directors, its Counsel and its staff." Industrial Review, Vol. 10, No. 120 (July, 1939).

The broad membership of the Joint Technical Committee assumes particular significance when it is noted that Illinois industry leaders tend to pay careful attention to the policies and experiences of other states in their unemployment compensation activities.[5] Broad participation enables Illinois industry to obtain the views of out-of-state industry leaders whose sphere of business activities includes Illinois and who, therefore, maintain an active interest in Illinois public policy.

This much background is essential for subsequent understanding of the fact that the 1939 amendments to the Illinois Unemployment Compensation Act were agreed on with a minimum of drama and difficulty, were introduced and passed in the Senate in six days, were passed in the House in seven days, and were neither amended nor in any way opposed in either the Senate or House.

Industry's chief concern at this time was the question of computation of the experience factor which determined individual employer contributions to the Unemployment Insurance Fund. Last minute insertion of an experience rating provision in 1937 had served to keep the door open for changes in an existing experience rating principle in the Illinois law. The complications of experience rating, however, precluded the possibility of a satisfactory arrangement without considerable advance study. The Joint Technical Committee, chaired by G. M. Pelton, financial analyst for Swift & Co. and ex-professor of Accounting at Northwestern University had devoted itself to this kind of a study. The Committee recommended that the Illinois experience rating provision be revised to incorporate a state experience factor. The overall effect of the new formula would be "on the

5. Kermit Johnson, Manager, Social Security Department, Illinois State Chamber of Commerce, in an interview, Chicago, March 1, 1950.

whole to treat employers more favorably than other formulae."[6]

The employer associations made revision in the experience factor provision their chief point of emphasis in subsequent recommendations to the Advisory Board which served as the formal liaison between the legislature and labor and industry groups.[7] Labor was concerned about a possible determination on the part of employers to escape coverage by reducing their employees below eight. Consequently, a chief labor goal was an extension of coverage to employers of less than eight. In addition, labor sought to take advantage of the fact that other states had liberalized the waiting period provision, and, in addition, was urging an increase in benefits.

Labor and industry proposals along these lines were transmitted to the Advisory Board which recommended the change in experience factor computation together with an extension of coverage to employers of six or

6. Eveline Burns, The American Social Security System, p. 159. The experience factor provision in unemployment compensation legislation may take any one of five general formulae. Illinois' original provision was for the so-called reserve-ratio plan where an employers' rate is tied to the difference between the taxes he has paid and benefits paid to his employees. This difference is expressed as a percentage of the employers' payroll and related to a specific schedule. If an employers' payroll increases faster than his reserve, his ratio will fall and his tax rate increase. The Joint Technical Committee apparently perceived that this would often be the case. Accordingly, it proposed the switch to the benefit-wage-ratio formula. Here, a ratio is established between wages paid unemployed workers during their period of employment (benefit wages) and the employers' total payroll. This establishes an individual employers' experience factor which is correlated with a state experience factor representing a ratio of all benefits paid in the state to the benefit wages charged to all employers. Under a schedule of rates which is provided, each employers' rate approximates the product of his experience factor multiplied by the state experience factor. See Almon Arnold, "Experience Rating," Yale Law Journal (December, 1945), p. 230.

7. Staff interview with John Wald, then a labor member of the Advisory Board, Peoria, October 17, 1949.

more, a reduction in the waiting period from two to three weeks, and an increase in maximum benefits from $15 to $16. Victor Olander, Secretary-Treasurer of the Illinois State Federation of Labor and a labor member of the Advisory Board approved this agreement for labor. Olander's dominant position assured labor acquiescence. However, the multiplicity of employer associations and the fact that the employers had not yet happened on a single individual to whom they would delegate the same degree of authority that organized labor groups had delegated to Olander made it necessary for the agreement to be approved by the Joint Executive Committee. In this case, such ratification was achieved without incident. It was "the consensus of opinion of all those who participated in the consideration of the new subject matter that the conclusions of the Board of Unemployment Compensation under all the circumstances were fair from the standpoint of Illinois industry and business."[8] In justifying its support of increased benefits, the IMA pointed out that "it seemed clear that if an accord was not reached and the matter were fought out in the Legislature that impasse would have been reached." No particular explanation was offered for the concessions on coverage and waiting period. In this connection, it may be important to note that by 1939, thirty states had a briefer waiting period provision that Illinois, while twenty-two states had scaled coverage somewhere below employers of eight.[9] Presumably, the multi-state representation on the Joint Technical Committee and the consequent consideration of experiences of other states in these areas diminished the opposition that might otherwise have been engendered by these proposals. Benefit increases were of another

8. Industrial Review, Vol. 10, No. 120 (July, 1939).

9. Issues in Social Security, A Report to the Committee on Ways and Means of the House of Representatives by the Committee's Social Security Technical Staff established pursuant to H. Res. 204, 79th Cong., 1st Sess. (1946) pp. 498 ff.

order, however, as only one state had established a maximum rate over $15 by the 1939 legislative sessions.[10]

S. B. 458 incorporating the agreed amendments to the law was introduced in the Senate by John Lee on May 4, 1939, and advanced without Committee reference. This bill, which had an identical counterpart in the House, was the only measure proposing amendments to the Unemployment Compensation Act to be introduced at this session of the General Assembly. Neither labor nor industry found it desirable to publicize their goals to the extent of sponsoring bills. Exactly two weeks after its introduction, S.B. 458 emerged from the legislative gantlet completely unscathed, and six days later was signed by the governor.

2.

When the 62nd General Assembly convened in 1941, labor had had two successful experiences with agreed bills in the unemployment compensation field. Moreover, the general environment was such as to suggest that independent action would not be likely to meet with success.

The only controversial labor bill enacted during the 1939 session was a measure requiring the payment of prevailing union rates of wages on all public works projects. Although industry did not make opposition to the legislation a major issue, it did oppose enactment. The IMA General Counsel advised that "the measure was unquestionably unconstitutional."[11] On October 11, 1940, the Illinois Supreme Court ruled the prevailing wage law unconstitutional. In December, a petition for a rehearing was denied.[12]

Other considerations were obtained which might well have led organized labor to take a dim view of its chances. The 1940 elections brought the Republican Party into power in both the executive and legislative

10. Wyoming had established an $18 rate in its initial act of February 25, 1937.

11. Industrial Review, Vol. 11, No. 128 (October, 1940).

12. Reid v. Smith, 375 Ill. 147.

branches of the state government. Organized labor's relationship with the Director of the State Department of Labor had been excellent during the tenure of Martin P. Durkin, a Horner appointee. Durkin had not been re-appointed by Governor Green, however, and while he continued to serve his appointment was in constant danger of being terminated. Finally, as President Soderstrom subsequently reported to the State Federation of Labor convention, the Republican victory in the state gave vigor to industry.

> In the opening of the legislative session in January, the representatives of the employers tried, and succeeded somewhat, in crystallizing the sentiment that wage-earners had enjoyed their day under President Roosevelt and his Democratic administrations. Now that the Republicans were back in power in the State of Illinois, labor would make no further progress in the legislative field. In fact, the employers were contending, labor would be lucky to hold the gains they had won.[13]

Sensing that the period was not one making for easy agreement, and perhaps sensing too that the possibility of war might lead to long-time maintenance of any changes enacted in 1941, labor and industry both prepared legislation embodying extreme positions which might subsequently be used for bargaining purposes. The labor proposal (S.B. 24) was offered by Senator Lee on January 28. It provided for extension of coverage to employers of one or more, for the inclusion under the act of agricultural labor, seamen, and employees of charitable institutions. Minimum and maximum benefit rates would have been increased to $10 and $24 from $7 and $16 respectively, while duration of payments would have been increased to 20 weeks from 16. The bill made sickness and disability benefits permissive by repealing the able to work requirement, repealed the waiting period, decreased the earnings required for eligibility from $225 to $150, and repealed the merit rating provision.

13. Illinois State Federation of Labor, Proceedings Fifty-ninth Annual Convention, Danville, Illinois, September 15, 1941, p. 6.

Counter-proposals by the employers were incorporated in S. B. 110 introduced on February 19. Under this bill, application of the act would again have been limited to employers of eight or more, earnings for eligibility would have been increased from $225 to $350, and employees drawing workmens' compensation or occupational diseases benefits during unemployment would have been ineligible for benefits under the Unemployment Compensation law. Further, provisions dealing with availability for work as a condition of eligibility were tightened, while benefits would have been denied to employees discharged for cause or those who suffered loss of employment for reasons beyond the fault of the employer.

Both of these bills were allowed to languish in committee while employer and labor representatives sought to work out an agreement. An impetus to agreement came in March when Governor Green took official notice of the situation and appointed a new Advisory Board. The significance of this lies less in the personnel appointed, as there was no general overhaul, than in the fact that by taking action the governor was exerting pressure for agreement. The new Board held its preliminary meetings in April.

More significant meetings on the same subject, and the beginnings of a pattern of crucial importance were being developed at the same time, however. W. J. MacPherson, Vice-President of the Public Service Company of Northern Illinois, had succeeded G. M. Pelton as Chairman of the Joint Technical Committee and had become principal employer spokesman in the unemployment compensation field. John H. Doesburg, Counsel for R. R. Donnelly and Sons, was closely associated with MacPherson as Vice-Chariman. From this time until his death in 1947, MacPherson established an ever-increasing sphere of authority and interest in industry's position on the

unemployment compensation question. His technical competence, prestige, influence with the Joint Executive Committee, and increasing experience in negotiating agreements all combined to make him the unquestioned spokesman for the employers.

An additional consideration affecting MacPherson's position in the industry group involved his relationship with his labor prototype, Secretary-Treasurer Olander of the State Federation. Olander had long been organized labor's chief legislative agent in the state, and unemployment compensation was taken on by him almost as a matter of course. As the State Federation was preeminent in developing labor's policy at Springfield, Olander was preeminent in developing the policy of the State Federation. In the course of time, a personal rapport developed between Olander and MacPherson that was of great significance in the utilization of the agreed bill process.[14]

By early June, 1941, Olander and MacPherson were approaching but had not yet reached an agreement which might be submitted formally by the Advisory Board to the legislature. Accordingly, on June 4, the Senate Judiciary Committee voted to report out favorably S. B. 24 with the understanding that certain agreed amendments would be proposed on second reading. A week later, however, an agreed bill was determined upon, S. B. 24 was tabled, and in its report dated June 14, the Advisory Board submitted its proposals with "our earnest recommendation that immediate consideration be given to the proposed amendments outlined herein." These amendments were incorporated in Senate Bill 691 introduced by Senator Lee on June 11. Advisory Board Chairman Cahn's letter of transmittal indicated that "Labor

14. On one occasion, MacPherson was indisposed and unable to carry on talks. Although industry proposed another spokesman, Olander insisted on awaiting MacPherson's recovery.

organizations and employer associations have expressed substantial agreement with the conclusions reached in the attached report."

Major substantive matters provided for in the agreed bill included an increase in maximum benefits to $18, which was as high as any state had gone, and an extension of duration to 20 weeks. The waiting period was reduced to one week, while a three week penalty period was assessed for voluntarily leaving employment. Unemployment and workmens' compensation benefits were not to be paid simultaneously unless the latter was smaller than the former in which case only the difference would be paid. Coverage was to be extended to employers of one or more employees. The Advisory Board buttressed this last recommendation with the announcement by the Division of Placement and Unemployment Compensation that it was "now ready to take on the increased administrative load involved in the coverage of employers of one or more workers."

Senate Bill 691 was presumably an ideal agreed bill. Worked out by Olander and MacPherson each of whom had considerable prestige in their respective groups, it was approved by the Advisory Board which, in turn, had gubernatorial sanction. Finally, the administrative office involved had been consulted and had given its approval. Nonetheless, S. B. 691 did not have the easy legislative path usually associated with an agreed bill. The reasons for this seem to lie in the unwillingness or inability of organized management and organized labor to recognize the particular interests involved---particular interests whose influence was not a part of either organized labor or organized employer activity and who, consequently, used their influence on the only formal body in which they had representation, the legislature.

By the time the agreement incorporated in S. B. 691 had been reached, three particular interest bills had been favorably reported out of legislative committees. One of these would have exempted all insurance agents on commission from the act rather than only a selected group; a second would have exempted salesmen of seed; the third redefined wages as applied to seasonal employment so as to benefit seasonal employers. None of these bills was incorporated in the agreed bill.

Of even greater significance was the fact that industry, functioning through the Joint Technical Committee and its representatives on the Advisory Board, had agreed to an extension of coverage to employers of one or more despite the fact that, as they were to admit much later, "while they have some of these small business concerns represented in their organizations, they do not, as a matter of fact, represent the great bulk of the smaller business concerns who would be affected by the proposed coverage."[15] There were, in 1941, approximately 40,000 employers covered by the Illinois act. The proposed amendment would have increased the number of covered employers by approximately 116,000.

S. B. 691 was advanced to second reading without Committee reference. Presumably, both the parties to the agreement and the particular interest backers were eager to dispense with formality and get to a test vote. Eight amendments were proposed from the floor: five dealt with the seasonal employment question, one with seed salesmen, one with insurance salesmen, and one would have deleted the provision for extension of coverage. The tangential interests who had not been parties to the agreement were carrying their case to the legislature. A roll-call vote of the Senate was taken only on the question of deleting the extension of coverage. This

15. Footnote to the Report to the Governor and to the Sixty-Fourth General Assembly by the Board of Unemployment Compensation and Free Employment Office Advisors (Illinois Department of Labor, 1945), p. 12.

was probably considered the most meaningful test of opposition strength to S. B. 691 as agreed to by labor and employer groups.

The vote was set-up by Senator Lee's motion to lay on the table the amendment deleting extension of coverage.[16] Lee's motion prevailed by only two votes, 25-23, thereby maintaining the extended coverage. An analysis of the vote gives no definite indication of a split along either urban-rural or party lines. The best that may be said is that Democrats tended to support extension (16-5) while Republicans tended to oppose it (18-9). Chicago Senators tended to support extension (11-6). This crazy-quilt pattern, later to be reproduced in the House, suggests only that legislators were forced to conclude that labor-management agreement or no, some phases of this question would have to be decided on the basis of the effect on the legislator's constituency (or at least the effect on the majority of the voters therein), and the effect on the legislator's experience.

Experience and constituency dictated a different result in the House. Although S. B. 691 did not reach the House until a week before adjournment, Representative Allison's motion to suspend the rules and advance the bill to second reading without reference failed. This was a forerunner of greater difficulties to come. The House Judiciary Committee reported the bill out within a matter of hours, but recommended the adoption of two amendments: elimination of the extension of coverage provision, and blanket exemption for insurance agents working on commission. Management, embarrassed by its multiplicity of interests, was silent. On the one hand, the employer group tended to favor the less extended coverage and greater exemptions; on the other hand, neither of these matters was of direct

16. The motion to lay on the table is a privileged motion and has the effect of forcing the issue as it must be decided without debate. Rules 44 and 46 of the Illinois Senate.

interest to the Joint Executive Committee, and there was some advantage in leaning over backwards to show good faith as to the agreed bill.

The labor group was in no such dilemma. Soderstrom and Olander vigorously urged defeat of the amendments and adoption of the bill as agreed upon. They made a particular point of the fact that none of the representatives of employers who had been part to the agreed bill opposed discarding the agreement.[17] This implied bad faith charge may have been designed to capture the vote of the hesitant legislator with the suggestion that a vote against the amendments would be a vote for good faith while a vote for the weakening amendments would be tacit approval of bad faith. In any case, the House approved both amendments with votes to spare.

The earlier close vote in the Senate probably suggested to Senator Lee that little would be gained from a conference between the houses. Senate conferees would hardly be in a position to suggest that the Senate felt strongly that the House-approved amendments should be deleted, whereas House conferees might well have argued that that chamber had shown a relatively greater strength of feeling. In addition, there was always the danger of a conference stalemate and consequent loss of the legislation. Accordingly, Senator Lee moved that the Senate concur in the House amendments. The motion carried without opposition, and a rather battered "agreed" bill was approved by the governor on June 30.

The need for some explanations and apologies remained. Industry leaders plainly had to demonstrate that there was some justification for initial agreement in view of the fact that the legislature had shown itself willing to vitiate at least two liberalizing amendments. Was it not possible, it might have been asked, that the legislature would have

17. News Letter, Vol. XXVII, No. 14 (July 5, 1941).

rejected increased benefits if industry had not agreed thereto? On the labor side, the need was to focus credit for achievement on the labor conferees, and to indicate that the legislature was not to be congratulated.

In its review of the legislative session, the IMA tacitly admitted that the original agreed bill represented the best judgment of industry negotiators as to the temper of the legislature on unemployment compensation:

> The views of the labor group were very largely embodied in Senate Bill 24 which not only provided for substantial liberalization of the Act, but also for the elimination of the merit rating provision as well as the elimination of the provision prohibiting payment of benefits to strikers. The viewpoint of the employers in connection with this subject were (sic) presented to the Advisory Board primarily by a Joint Employers' Committee which embraced representatives of the principal general employer groups in Illinois. It was the consensus of opinion of the individuals identified with this activity on behalf of the employers that their acquiescence in the changes of the Act was warranted by the situation that existed in the Legislature in relation to this particular subject matter.[18]

Again, Doesburg who chaired the IMA Unemployment Compensation Committee in addition to his work with the Joint Technical Committee, noted that the former group had not acquiesced all along the line. Liberalizing amendments, it was pointed out, "were aggressively opposed by the Illinois Manufacturers' Association."[19] Finally, the Industrial Review devoted a full page spread to a presentation of "Amendments That Are Favorable to Employers in the Illinois Unemployment Compensation Act."[20] Industry representatives were making it plain that they had fought the good fight, and had achieved some important victories in the agreed bill. Those losses which might have been avoided were a consequence of possible errors in judgment, but any rational industry representative would probably

18. Illinois Manufacturers' Association, "Review of Legislation Affecting Industry considered at the 62nd Regular Session of the Illinois General Assembly" (Chicago: August 1, 1941), p. 8. (Underlining supplied).

19. Industrial Review, Vol. XIII, No. 135 (January, 1942), p. 19.

20. Vol. XIII, No. 133 (August, 1941), p. 9.



have made the same errors. Quite properly, the "Big Five" claimed no credit for the actions of the House.

Soderstrom explained to his Convention that the "lawmakers are not entitled to a great deal of credit" for voting for an "agreed" bill. "The General Assembly compelled the representatives of labor to go out and get agreements with the employers, to sit into conferences with representatives of employers and reach an agreement." Indeed, "the membership of the General Assembly...voted only for such bills as the employers agreed labor should have." Thus Soderstrom seemed to argue that the agreed bill was the only way for labor to achieve immediate goals. Without the agreed bill, labor could not have achieved even as much as it did here. The legislature is a formidable obstacle. "Credit for the enactment of this legislation is due more to the ingenuity of the representatives of labor who sat into these conferences than it is to the generosity of the elected members of the General Assembly."[21] In Soderstrom's eyes, at least, the legislation would have been of a different order if its formulation had been dependent on the "generosity of the elected members of the General Assembly."

21. Proceedings Fifty-ninth Annual Convention, pp. 7 f.

POLITICS, ECONOMICS, AND AGREEMENT: 1943, 1945, 1947

1.

On October 1, 1941, Governor Dwight Green appointed Francis P. Murphy director of the Illinois Department of Labor and thereby touched off a controversy which helped to illuminate determinants of and attitudes toward the use of the "agreed" bill in labor legislation.

The State Federation of Labor, from the time of Green's election in November, 1940, had urged on him the reappointment of Martin Durkin as head of the Labor Department. The 1941 convention of the State Federation affirmed the advice of its officers and went on record in favor of Durkin's retention. The United Mine Workers, the Progressive Mine Workers, and the state C.I.O. were less enthusiastic about Durkin.[1] When, however, the Murphy appointment was announced, the State Federation made a vigorous protest, and used the columns of the News Letter for this purpose. Green was finally impelled to defend his own labor record in an open statement to President Soderstrom of the Federation. Soderstrom's response made specific and pointed reference to the use of the agreed bill in past sessions of the legislature:

> It is a startling fact that the passage of every major bill enacted by the legislature since you became Governor was the result of conferences and agreements between labor and employers, through the Illinois State Federation of Labor and leading employers' associations, the most prominent of which was the Illinois Manufacturers' Association. It was a most unusual experience and was so reported to our Danville convention a year ago. You know that to be true. We did not then direct any particular criticism against you, because we believed that your very apparent shortcomings were perhaps due to inexperience, which the passage of a little time might remedy.

1. It was around this time that the State C.I.O. began to emerge as any kind of significant political power in Illinois. Its potency remains limited, however, by the entrenched position of the State Federation of Labor, and by the fact that C.I.O. membership is concentrated in the urban areas, notably Chicago, which are underrepresented in the legislature.

> It was the subject of very serious discussion in our councils and that is the conclusion we then reached. We wanted to be helpful to you, to give you every possible chance to make good. That has been the traditional attitude of the Illinois State Federation of Labor towards all new governors throughout the entire sixty years of its existence. We have always been patient in that respect.[2]

The Murphy appointment gave rise to an extended controversy. As late as May, 1943, Secretary Olander of the Federation was of the opinion that he was being excluded from the Governor's conference on relaxation of the women's eight hour laws because of his steadfast opposition to Murphy.[3] It was not until July 31, 1944, with elections a few months off, that Green accepted Murphy's resignation, and appointed Robert Gordon as Acting Director of Labor. Gordon was subsequently named Director and enjoyed a harmonious relationship with the State Federation although there is some question about the attitude of other labor groups.

At least one other factor, somewhat more impersonal, but no less real, almost certainly intruded on the thinking and deliberations of those responsible for Illinois Unemployment Compensation policy in 1943. The peculiar wartime economic conditions and their effect on unemployment compensation trends is summarized by the Unemployment Compensation division:

> Since production and employment were high, total wage payments were large. As the contributions of employers to the Unemployment Compensation Trust Fund are proportional to wages, they, too, were large. At the same time, the numerous employment opportunities furnished by war production decreased the extent of unemployment. Consequently the volume of unemployment compensation claims and benefit payments was low.
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> The number of persons who are covered by the Unemployment Compensation Act varies with the size of the working population and with its industrial distribution. During the war, the working population increased, partially as a result of normal growth and partially due to the availability

2. Letter from R. G. Soderstrom to Governor Dwight Green, October 7, 1942, reproduced in News Letter, Vol. XXVIII, No. 29 (October 17, 1942), p. 1.

3. News Letter, Vol. XXIX, No. 9 (May 29, 1943), p. 1.

> of many attractive employment opportunities. As the volume of production was more than sufficient to absorb the people who are ordinarily in the labor market, some retired workers, housewives, and young people of school age found jobs readily and were induced to accept them because of the liberal wage incentives. It is noteworthy, moreover, that the jobs created by the demands of the war were mostly in manufacturing, an industry group in which coverage under the Unemployment Compensation Act is almost complete.[4]

At the beginning of the 1943 session, the Illinois law was less liberal than that of sundry other states in only two major respects. Twenty-three states, by this time, had extended coverage to employers of less than six employees although by no means had all of these states scaled coverage all the way down to employers of one or more. The second area in which Illinois seemingly lagged involved maximum number of weeks for which benefits were payable. By August, 1942, fourteen states were paying benefits for a maximum period longer than Illinois' sixteen weeks. A qualification in order here is that Illinois' maximum amount of $18 per week compared favorably with the maxima of all other states save Connecticut, Michigan, Utah, and Hawaii.

Judging from its legislative activity, it appears that organized labor was preoccupied with the benefit question at this time to the virtual exclusion of concern about other aspects of the unemployment compensation picture.[5] Thus, labor's spokesman in the House, Representative Allison,

4. Illinois State Department of Labor, Division of Placement and Unemployment Compensation, Unemployment Compensation During the War Years (Chicago: October, 1946), p. 4.

5. In a sense, this appearance is somewhat misleading. In this session, as in many others, labor representatives propagandized for elimination of merit rating. The propaganda was particularly active in 1943 because of the fact that merit rating permitted expanded wartime industries to have low contribution rates despite the fact that they had not made any particular efforts to "stabilize" their employment, and that these same industries would probably become major contributors to unemployment at the close of the war. This situation resulted from a computation of "experience" years on which contribution rates were based as past years during which payrolls had been considerably smaller than they were during the war. Thus, under the law, these businesses could use the low rate, obtained from their records covering a relatively few employees,

introduced a bill covering only two points--an increase in the benefit amount to $24, and a repeal of the one week waiting period. An employer bill, sponsored by Representative Stransky, concentrated on a tightening of disqualification provisions. Agreement was very slow in forthcoming. The employers objected less to an increase in benefits than to labor's refusal to go along on tightening disqualifications. By early June, prospects for agreement seemed exceedingly dim, and labor succeeded in a motion to discharge the Judiciary Committee from further consideration of the Allison bill. By June 10, by a vote of 88-11, the House voted to place the bill on the calendar. It is probably true that the most optimistic labor observers did not expect to push the Allison bill through. However, it was an advantageous point from which to start.

5. (Cont.) to apply to their expanded business which was not of a permanent character. Labor strongly supported a special "war risk" provision, subsequently enacted, which was designed to cope with this problem.

In reality, though, labor representatives seem to look upon the merit rating provision as a kind of screen. Employer groups are necessarily concerned about merit rating, and consider maintenance of the system and improvements in it to be victories for themselves. Labor, however, probably feels less strongly about merit rating than its propaganda suggests. The size of the Unemployment Compensation Trust Fund has always been sufficiently large to cover any "normal" amount of unemployment. If another serious depression should occur, the fund would undoubtedly be inadequate and additional revenue would be required. Thus, labor feels that the important consideration is to insure that public policy be consistently positive toward UC. With a positive public policy, necessary revenue will be obtained through some manner or means irrespective of the existence of merit rating. Labor leaders suggest that merit rating fights are really "illusory" in that labor may use them to harass industry and compel concessions in other areas. The anti-merit rating fight becomes a kind of technique used to achieve goals, rather than a real goal in itself.

This is related, of course, to the fact that Illinois does not utilize employee contributions to the fund. Labor tends to be unconcerned about costs. Its interest in merit rating might be a more real one if it had some responsibility in the cost area:

"The employee tax would help put employees on a parity with the employer... Under the present arrangement, many employees believe that benefit increases are financed entirely by the employer and they tend therefore to exert their influence mainly toward payment of higher benefits without consideration of costs." Unemployment Insurance, A Report to the Senate Committee on Finance from the Advisory Council on Social Security (S. Doc. 206, 80th Cong., 2nd Sess.), p. 28.

Within a week, an agreement was reached between labor and industry representatives whereby benefit rates would be increased to $20 on April 1, 1944. Labor gave up its request for elimination of the waiting period. It was decided to incorporate the agreement in S.B. 399 then pending in the House which had originally involved technical and procedural changes in the law rather than substantive amendments. The time factor seemed to be the chief consideration here. The agreed amendment, once approved by the House, would require only Senate concurrence since that chamber had already passed the basic bill. This saved about a week which would otherwise have been lost in advancing the bill through three readings.[6] This plan was followed, the amendment was formally offered by the Advisory Board, and the agreement adopted without incident.

The facts involved in the 1943 agreement suggest a possible kind of explanation which it may be worthwhile to consider in an attempt more clearly to understand the interrelationship between this agreement and others which precede and follow this particular case. Labor goals, in 1943, could have been directed toward an attempt to obtain increased benefit rates not so much for short run purposes but rather to insure a high level of compensation at such time as the war economy slackened off. A mid-war increase in unemployment benefits might have had no appreciable immediate significance because of the high level of employment, but it could be used as a higher base from which to negotiate for further increases when unemployment again became an important problem. Moreover, it might have been assumed that industry opposition to increased benefits would be at a minimum in this period. Industry, like labor, had little cause to be concerned about benefit rates during the war because of the small number of claims.

6. "Every bill shall be read at large on three different days, in each house." Illinois Constitution, Article IV, Section 13. In practice, the passage of a bill is rarely accomplished in only three days.

In addition, however, industry anticipated (incorrectly, as it developed) a precipitous rise in unemployment after the war, and probably foresaw as well the possibility that a wartime increase might be used as a base for greater demands, rather than as a point of stabilization. On the other hand, the employer group could well have reasoned that a nominal increase in benefits at this time would serve as an answer to demands for a greater increase when unemployment rose, and when, as a consequence, there would be stronger labor demand for a large increase. The area of speculative analysis boils down to the suggestion that, on the benefit issue, the war conditions might have influenced labor to push for a short-range goal so as to set up more advantageous conditions for long-range achievements, while these same conditions might have influenced industry to accede to short-range labor goals so as to be able to argue that the granting of short-range goals did, in fact, meet the long-range problem. This hypotheses is tested in subsequent discussions of post-war activity.

2.

When the 64th General Assembly convened in 1945, pressures from diverse sources were forthcoming for liberalization of the Illinois Unemployment Compensation law in every respect of major importance to labor except benefit increases.

Governor Green's inaugural address to the legislature was, according to the State Federation of Labor, "of a more positive character than any he has previously made."[7] In dealing with unemployment compensation, the governor recommended extension of the benefit period to twenty-six weeks from the existing twenty weeks, and inclusion of "all employers within the act, so that all legally qualified employees will be covered." Governor Green, however, stated explicitly that he hoped for achievement of these ends "without increasing the scale of benefit amounts."

These recommendations coincided almost exactly with recommendations made by the United States Chamber of Commerce in October, 1944. The Chamber had urged that (1) the individual states consider the feasibility of extending unemployment compensation to employees of smaller employers in those cases where the State law now covers the occupation or industry, and (2) insofar as the condition of the State unemployment compensation funds permitted, the states gradually lengthen the time during which unemployment benefits are payable (rather than increase the amount of benefits payable per week.)[8]

In addition, the federal Social Security Board offered four specific recommendations on unemployment compensation to state legislatures meeting in 1945. These included extension of coverage to employers of one

7. News Letter, Vol. XXX, No. 42 (January 13, 1945)

8. United States Chamber of Commerce, Social Security in the United States, Chamber Policies and Report of Committee on Social Security (October, 1944), pp. 6-7.

or more, a lengthening of benefit duration to twenty-six weeks, an increase in maximum benefit amount to $25 per week, and the elimination of "unduly restrictive" disqualification provisions.[9]

Strong indications that the war, in Europe at least, would be over before the 1947 legislative session focused labor and industry interest in Illinois on the 1945 session. In fact, the European war did end before the adjournment of this session, and the amendments to the law passed in 1945 must be considered an attempt to satisfy the diverse pressures created by the anticipation of immediate post-war unemployment. If labor had aimed at a post-war benefit increase, however, its case was appreciably weakened by the existence of the price control system, and the not inconsiderable attention being paid to the need to head off an inflation. This may account for the fact that at no time was there an effort made in this session to press for an increase in benefits. The point of concentration, instead, was the proposition endorsed by Governor Green, the United States Chamber of Commerce, and the Social Security Board: extension of the duration period. Interestingly enough, only California and Maryland were paying benefits at the beginning of 1945 for a period longer than Illinois' 20 weeks.

Although a relatively large number of bills on the unemployment compensation subject were introduced in this session, neither labor nor industry offered a systematic series of amendments. Conferences between Olander and MacPherson began early in the session; apparently, they showed promise of success from the beginning. By mid-April, the report of the Advisory Board was ready, and around the same time an "agreed bill" was introduced in the Senate as an administration measure. Principal substantive recommendations of the board included an increase in duration of payments

9. Unemployment Compensation in the Reconversion Period, Social Security Bulletin, (October, 1944), pp. 3-8.

to a maximum of 26 weeks, an increase in minimum weekly benefits from $7 to $10, and, again, extension of coverage to include workers in establishments which employ one or more persons. Special circumstances involving this last recommendation merit special attention.

Extension of coverage had been a vital issue in 1941 when the recommendation of the Advisory Board, although incorporated in the agreed bill, had been eliminated by the legislature. On that occasion, it is probably accurate to say that small employers who were not by and large represented by the "Big Five" had urged the legislature to reject the proposal. The major employer organizations had been placed in something of an embarrassing position in that they were willing to agree to extended coverage, but could not openly renounce their fellow employers. At the same time, they were not eager to abrogate the agreement with labor. When the issue was opened afresh at this session, a new technique was utilized. Employer representatives on the advisory board footnoted that portion of the report dealing with extended coverage with a reservation. Indicating that they agreed <u>personally</u> to the amendment, the employers nonetheless refrained from voting thereon because of their inability accurately to gauge the sentiments of the smaller employers. A consequence of this was exclusion of the extended coverage amendment from the agreed bill, and its presentation to the General Assembly as a separate measure. The Assembly had to deal with two measures, one of which was agreed, and the other of which was, at best, non-disagreed. Presumably the major employer groups would not disagree to extended coverage, but they would not give it the advantage of a labor-industry agreement.

The agreed measure of this session, then, incorporated the increase in minimum benefits and extension of duration. This bill, supported by the administration and favored by labor and management met no organized opposition and passed the General Assembly easily. Extension

of coverage to small employers was not included within this agreed bill as it had been in 1941. The earlier experience may have suggested the desirability of confining an agreed bill to those matters on which positive agreement had been reached. Extension of coverage was introduced by Senator Trager and reached the Senate Industrial Affairs Committee simultaneously with the agreed bill. Trager's bill was considered by the committee after the agreed bill had passed the Senate probably so as to avoid a confusion of issues. The committee reported the measure out with a recommendation that it do not pass, in effect, killing the bill. The Committee vote showed eight Republicans and one Chicago Democrat comprising the majority, with three Democrats in the minority.

Subsequently, the State Federation indicated that it put little stock in the notion that small businessmen killed extended coverage. Noting the adverse committee vote, the News Letter reported that the defeat came "following opposition by what was alleged to be a group of 'small business men' whose activities, however, were plainly under the guidance of certain large organizations... The bill was introduced as an administration measure on behalf of the Board but never had even the ghost of a chance for passage."[10]

One other incident of this session deserves emphasis. Senator Daley, who had sponsored the agreed bill of 1937 in the House, introduced S.B. 300 which would have qualified claimants who became ill or disabled subsequent to the time of initial registration for work. The net effect would have been to modify the "able to work" provision of the unemployment compensation law by requiring only that the claimant be able to work at the time a claim was filed.

Employer and labor representatives appeared before the Senate Industrial Affairs Committee at a hearing on May 9, 1945, and both groups

10. Vol. XXXI, No. 17 (July 21, 1945).

opposed a favorable committee recommendation. Representatives of the two interests stated that their objection was not necessarily directed at the provisions of the bill, but that to do anything but oppose enactment would be in violation of an agreement entered into in good faith with the Unemployment Compensation Advisory Board. It was argued that an agreed bill was pending in the legislature, and that a further agreement obtained on introducing Trager's extended coverage bill as a separate measure. The labor and employer spokesmen stated explicitly that in view of these conditions, they would be acting in bad faith in doing anything but opposing this bill.[11]

3.

The post-war Illinois political and economic scene, like that of every other state, was quite different from the pre-war scene, and that difference was reflected in the development of unemployment compensation policy. "After the surrender of Japan, the employment situation changed radically. Many war workers were displaced as a result of the cancellation of Federal war contracts. The rapid demobilization of war veterans increased the number of persons seeking work. Consequently unemployment, which had been at a minimum, rose sharply... The beneficiaries were subject to a large turnover. Only a minority of the beneficiaries during a period of time were still drawing benefits at the end of the period. While some beneficiaries exhausted their benefit rights, the majority ceased to draw benefits, although they still retained benefit rights. Many of those who discontinued their withdrawals had found jobs, some had left the labor market, and others were disqualified for refusal of jobs or for other reasons."[12]

11. Ibid., No. 6 (May 12, 1945).

12. Employment Security in the Year Following V-J Day, Activities of the Division of Placement and Unemployment Compensation, State of Illinois Department of Labor (Chicago: 1946), p. 1.

Large scale sustained unemployment did not emerge as a serious problem in the period from the end of the war to the convening of the 65th General Assembly in January, 1947. On the other hand, the upward spiral in the price index had not yet reached a generally alarming level. The consequences of the situation were that industry was prepared to resist any attempts to extend the unemployment compensation benefit period beyond 26 weeks, and was also prepared to resist arguments for benefit amount increases. Moreover, the industry group was viewing with alarm past and prospective payments to claimants who were voluntarily leaving the labor force either temporarily or permanently, and to those who refused "suitable work."[13] Employers were undoubtedly dissatisfied with their inability under the law to contest claims that they thought undeserving, although there is no indication that they were generally dissatisfied with administrative rulings on those claims which were contested despite the fact that the Unemployment Compensation Division allowed more contested claims than it disallowed:

> In the year from August 1945 to July 1946, 309,000 claims were contested. Labor disputes accounted for more than one-fourth of the contests. Other reasons which were individually responsible for as much as one-fifth were the issue of ability to work and availability for work and the issue of refusal to apply for or to accept suitable work. Voluntary leaving gave rise to a tenth of the contests, and alleged misconduct to one-twentieth of them. Miscellaneous reasons, prominent among which was late reporting, accounted for the remainder of the contested claims.
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> An indication of the general validity of the claims is that 42 percent of those contested resulted in disqualifications or denials, while the remaining 58 percent were decided in favor of the claimant. Only one issue, labor disputes, gave rise to more denials than affirmations of the claimants' rights to benefits. While 83 percent of the claims contested on the basis of labor disputes resulted in denial of benefits, the proportion of disqualifications or denials in the case of most other issues was

13. Interview with Royal A. Stipes, President, Illinois State Chamber of Commerce, Champaign, February 11, 1950.

> in the neighborhood of 30 percent. Even lower (15 percent) was the proportion of disqualifications for refusal to apply for or accept suitable work.[14]

In addition, industry was riding the wave of public unhappiness over the post-war round of strikes and the anti-labor feeling that resulted therefrom. The 1946 elections, certainly, could not be construed as a popular mandate for the formulation of further "protective" labor legislation. Politically and economically, Illinois employers seemed at last to be on the offensive in the unemployment compensation area. The point at which this offensive was to be concentrated was disqualifications. Management leaders insisted that they did not object to the existing $20, 26 week formula. The opposition, rather, was directed at the payment of benefits to people who were unemployed through their own doing.[15]

Labor was aware, of course, of the environment within which the General Assembly was to work. More than half the states had passed, or were to pass in 1947, severe "restrictive" labor statutes. The work of the State Federation of Labor during the 65th General Assembly was concentrated upon an effort to prevent the enactment of anti-labor legislation.[16]

Governor Green urged restraint on the legislature: "I would earnestly caution the General Assembly against any hasty action that would retard the progress which has been made in our State. The times call for dispassionate, impartial judgment upon all proposals having to do with labor and management." On the other hand, in the unemployment compensation field, restrictive action was invited, at least in a backhand fashion: "Unemployment compensation is a splendid program for those who are out of work and want to work. We are determined that it shall not be abused by those who remain voluntarily idle."[17]

14. Employment Security in the Year Following V-J Day, p. 7.
15. Interview, Royal A. Stipes, February 11, 1950, Champaign.
16. News Letter, Vol. XXXIII, No. 25 (September 20, 1947).
17. Biennial Message of Governor Dwight Green to a Joint Session of the Sixty-Fifth General Assembly, January 8, 1947.

Aside from the combination of economic and political circumstances which seemed to make disqualifications the chief point of attack, there was at least one other factor which helps explain the focus on this issue in 1947. Royal A. Stipes of Champaign was at this time chairman of the Legislative Committee of the Illinois State Chamber of Commerce. Stipes took an interest in legislative affairs which was more intense than that of his recent predecessors, and took a particularly great amount of interest in the state unemployment insurance program. The State Chamber, under Stipes' leadership, began to assume a more important role in legislative affairs than it had during the earlier period when the IMA served as the indisputable leader of the "Big Five." Among other activities, the Chamber started a thoroughgoing investigation of unemployment compensation policy. "Our activities," says the manager of the Chamber's Social Security Department, "started competition amongst the other employer groups."[18] On the basis of this study, Stipes was determined that the disqualification question be "corrected" in the 1947 session. Stipes' battle cry, used both in 1947 and 1949, was "We've got to go after what is right, and this is right."

The management group split apart on the disqualification question. Although there was no disposition anywhere to question the desirability of tightening disqualifications, there was serious disagreement as to timing---as to whether 1947 was the right time, or whether it might be more strategic to wait until 1949 when industry would be more likely to have to make some concessions to labor. The Secretary of an employer association who is a veteran of thirty years as a lobbyist around Springfield argued that the legislature would not be inclined to enact disqualification restrictions without some positive grant to labor, and that since no positive grant

18. Kermit Johnson, in an interview, March 1, 1950, Chicago.

seemed desirable in 1947, the subject should be deferred until 1949. According to this source, "The Illinois Chamber wanted to push hard (on disqualifications) in 1947, but some of us with more experience felt that it's one thing to want to do something and another thing to do it."

Ultimately, the State Chamber stood alone in its determination to force the issue in 1947. Partially as a consequence of the fact that this split on strategy weakened the employer position, management representatives adopted a position in 1947 that one of its own spokesmen describes as "not a sincere one." Because the Chamber was so firm about going ahead, and because of the need to present a solid management front, the other principal employer groups did not oppose the Chamber's program. It was an open secret, however, that the employers were not united. So as to make the strongest possible case, the Chamber sought to "throw the book" at labor on the disqualification question. A leading Chamber spokesman suggests that "we were asking for more than we really wanted, and really hoped to obtain."

Another reason for Chamber activity at this time was a growing feeling in the Chamber that William MacPherson had been over-conciliatory as chairman of the industry Joint Technical Committee in his dealings with Victor Olander. For example, one leader argues that MacPherson's only achievement for industry was in section 7g of the law which deals with discontinuance of benefit payments after 26 weeks irrespective of the coming of a new benefit year until such time as the beneficiary earns a sum equal to three times his benefit amount for a single week. This provision is designed to compel the recipient to accept employment which might not usually be considered "suitable work." In this respect, it serves as a kind of disqualification, but is not operative for six months. The Chamber was after generally tighter disqualification provisions which would be operative before, rather

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than after, any benefit payments. The essential elements of the Chamber program included disqualification of those persons who voluntarily took themselves out of the labor force, including women who left work for reasons of pregnancy, disqualification of those who voluntarily removed themselves to a different labor market area, and a narrower definition of "suitable work" than that which the Unemployment Compensation division had been utilizing.

In the course of introductory conferences, labor undoubtedly sensed the wide difference in intensity of feeling among the employer participants who were aiding MacPherson. The range of opinion in the management group moved from a characterization of management proposals as "a fair set of amendments", to a belief on the part of one representative that the employer position was not a sincere one. In terms of tactics, no less widespread a difference obtained, with one "Big Five" leader opposing any attempt at amendment of the law in 1947, while another insisted on absolute firmness, and a third suggested a generally conciliatory approach. Olander, for labor, refused to suggest a positive program. Taking advantage of the internal disagreement on the other side, he agreed to nothing.

At one point, an attempt was made to convince Bertram Cahn that the Advisory Board ought to meet and recommend enactment of the Chamber program despite labor opposition. This meant an attempt to sell the program to the public members of the board. Cahn, however, was devoted to the use of the agreed process. He had made particular mention in all of his reports to the governor and General Assembly of the fact that the Board's recommendations had been substantially agreed to by representatives of labor and industry. He demurred at breaking this pattern. Cahn, moreover, was an IMA director, and the IMA was not anxious for an open battle. Cahn kept asking for more and more time with the hope that some agreement would eventually

be worked out. Any substantive agreement, of course, could be offered as an amendment to pending non-controversial technical and procedural changes in the law.

On June 23, a week before the end of the session, MacPherson died of a heart attack. His death tended further to restrict the already dim possibility of agreement because MacPherson-Olander negotiations had come to be the accepted pattern. The session ended on June 30, as usual. The unusual aspect was that the legislature enacted no substantive changes in the unemployment compensation law. It should be noted, however, that the absence of legislation at this session was not a consequence of an inability of labor and industry to agree because of irreconcilable views. The evidence suggests that Olander refused the concessions necessary for an agreed bill at least partially because the employers themselves were not united on their demands. Whether or not there would have been an agreed bill had the employers been united is, of course, an imponderable; the facts are that the employers were not united and that there was no agreement.

COMPROMISE, BUT NOT AGREEMENT: 1949

Many of the factors impeding an agreement in 1947 on unemployment compensation legislation had disappeared or had been resolved by 1949. The post-war recession, expected in 1947, had still not materialized in 1949, and more and more students and practitioners were abandoning their "bearish" attitudes. The 1948 elections had indicated popular support for state and national administrations committed to programs of social security extension. Perhaps the most significant new factor was the rapidly increasing price level and the consequent diminution in the real value of the dollar.

A new factor of a somewhat different nature was emerging, however. By the end of 1948, three states had provided for the payment of benefits for temporary disability to workers covered by their unemployment insurance laws.[1] In addition, the Railroad Unemployment Insurance Law had been extended to cover cash sickness benefits for workers insured by that law. The tripartite Advisory Council on Social Security in its second report to the United States Senate Committee on Finance presented recommendations for a program that would afford protection to workers against the loss of wages due to permanent and total disability. In its fourth report, the Council took cognizance of the "major economic hazard" in the loss of income from temporary disability, and issued a summary statement on the need for providing protection against wage loss due to this type of disability.[2] Disability unemployment compensation was becoming a question for

1. California, Rhode Island, and New Jersey

2. "Because time was lacking for a comprehensive study of the various methods that have been proposed to afford protection to workers who are unemployed because of temporary disability, the Council refrains from making any recommendations covering this area." Unemployment Insurance, a Report to the Senate Committee on Finance by the Advisory Council on Social Security, S. Doc. 206 (80th Cong., 2d Sess.), p. 45.

serious consideration. Thus, Governor Stevenson's inaugural address carefully suggested, "I trust that when the legislature is considering unemployment compensation it will also explore the related question of temporary disability insurance."[3]

The Stevenson message was the first direct set of recommendations made to the 1949 legislature on the subject of unemployment compensation. Aside from the sentence on disability benefits, the governor touched on four points, benefit increases, extension of coverage, abuse of the system, and contribution rates:

> The maximum benefits payable under our Unemployment Compensation Act were last adjusted in 1944. The purpose of this legislation is to enable the unemployed worker to continue to purchase the necessities of life. Increases in wage scales and living costs since 1944 have obliterated the correlation between earnings and unemployment benefits which are now insufficient to cover non-postponable necessities.
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> Our statute extends the benefits of unemployment compensation only to workers in establishments which employ more than six employees. Twenty-seven states, employing more than 60% of all the workers covered by unemployment compensation have extended their coverage to establishments employing less than six, without, apparently, encountering serious administrative difficulties. I urge you to consider this matter with other legislative adjustments in the field of unemployment compensation.
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> Here, too, there are problems for the executive as well as for the legislature. The importance of security to workers, the heavy cost to employers, the volume of claims presented--all combine to demand the utmost administrative care to protect our unemployment compensation system against abuse by officials as well as undeserving claimants.
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> While I think weekly benefits payable to unemployed workers should be raised, consideration should also be given to a reduction of employer contribution rates taking into account the present size of the fund and the potential need for funds in the foreseeable future.[4]

3. Inaugural address of Governor Adlai Stevenson, Springfield, Illinois, January 10, 1949.

4. Ibid.

Shortly thereafter, the Chicago Tribune which, in past years, had stayed pretty much away from the state unemployment insurance scene, published the first of three editorials dealing with the general subject of benefit eligibility. The first editorial, published on January 25, 1949, established a framework:

> More than 200 people are drawing unemployment relief payments from the state of Illinois while enjoying the resort season in Florida. They are presumed to be looking for work there.
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> These people have no right to be supported out of the unemployment insurance fund merely because they are out of work. They paid no premiums on the so-called insurance. It was contributed by their employers. Its sole purpose is to tide workers over from one job to another, not to support them indefinitely because they happen to be jobless. To qualify for benefits, they must be looking for work.
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> So long as they are basking in Florida, verification of their claims that they are looking for work will be sketchy, at the best. There is an active labor market in Illinois. Employers who contribute to the unemployment fund would seem to have a prior claim to hire the services of the unemployed persons whom they are supporting.
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> There can be no law to prevent a citizen of Illinois from seeking work outside Illinois if he wishes. There should, however, be no law compelling Illinois to pay him benefits while he is away. There may be times when it would be desirable to have people seeking work in other states rather than drawing benefits because they cannot find work here. These are not such times.
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> There is a good deal of fraud in unemployment relief. It is partially legalized fraud. It consists of rulings as to what constitutes 'suitable work' for an unemployed person. Labor unions try to keep these definitions as narrow as possible. They would rather have a carpenter or bartender or race track cashier sitting idle and drawing relief than working as a laborer, even though he is physically fit for the laborer's job. This is a more far reaching scandal than that of the Florida reliefers.[5]

Three weeks later, a Tribune editorial reviewed the case of a bookkeeper who had been striken from the unemployment compensation rolls for refusing suitable work, but ended with a reaffirmation of the need to

5. Chicago Tribune, January 25, 1949, p. 14.

tighten requirements: "In view of the demonstration made by the Illinois unemployment insurance division in this case, that it kept trying to find suitable jobs for the bookkeeper and stopped paying her as soon as suitable jobs were found which she refused to take, how can the division possibly send checks to Illinois unemployed spending the winter in Florida, Arizona and California, and thus unavailable for jobs which might develop here?"[6]

Although it is manifestly impossible to make a quantitative evaluation of the influence of anything like newspaper opinion on either legislative attitudes or perceptions of legislators attitudes, the Tribune "campaign" was a background for introductory discussions between labor and management representatives. As the Secretary of one employer association put it, "things were being stirred up by this kind of editorial and by radio addresses by Fulton Lewis, Jr. on the same subject."

The labor forces suffered a severe blow when, on February 5, 1949, Victor Olander died after a brief illness. Olander had almost single-handedly guided and controlled labor activities in unemployment compensation legislation since the original act of 1937. His knowledge of the field, his prestige in the state labor movement, and his grasp of tactics and techniques in agreed bill negotiations were more profound than that of any other labor leader. His death, coupled with that of William J. MacPherson two years earlier, brought about a reorientation of the agreed bill process. Although MacPherson was replaced by John Doesburg and Paul Gorby, and Olander replaced by Daniel D. Carmell, the agreed bill process did not again become a two man negotiating process with controlling decisions made on the spot by the negotiators.

Another new element involved a possible redistribution of comparative influence between the State Federation of Labor and the State C.I.O.

6. Ibid., February 19, 1949, p. 8.

For the first time, a C.I.O. man was named Director of Labor when Governor Stevenson appointed Frank Annunzio to the post. This appointment, together with Olander's death, tended to strengthen the position of the C.I.O. in the total picture.

Early in April, Representative Stransky introduced H. B. 611 and H. B. 612 which represented attempts to enact the program supported by the Illinois State Chamber of Commerce. These bills revised employer contribution schedules, and made detailed disqualification changes. The definition of "unemployment" would have been amended to require an individual to be "actively seeking employment" in order to be so classified. In the area of availability for work, the bills required that an individual be "physically and mentally able to perform work of a character which he is qualified to perform by past experience or training." In addition, "no individual shall be determined available for work unless he has been and is actively seeking work either at a locality at which he earned wages for insured work during his base period or at a locality where it may reasonably be expected that such work may be available and he submits, for each benefit payment week, substantial evidence to such effect to the deputy." Pregnancy was a cause for disqualification, ipso facto, and it was to be legislatively determined that no woman is able to work during the three months prior to and one month following delivery of a child.

An individual who quit work because of marital, filial or other domestic obligations or other causes not attributable to the employer was to be deemed ineligible until he again secured work and earned eight times the weekly benefit payment applicable to him at the time of separation. A similar penalty was proposed for persons discharged for misconduct.

As to suitable work, an individual was to become ineligible if he failed "to submit substantial evidence that he is actively seeking work",

or failed without good cause either to apply for suitable work when so directed or to accept suitable work when so directed. Ineligibility, again, was to extend until the claimant secured a new job and earned eight times his old weekly benefit. The determination of suitable work was of special importance. Stransky proposed that in deciding whether an individual has been offered suitable work, "during the first four weeks of his unemployment, consideration shall be given to his prior training, his experience and prior earnings," but that after drawing benefits for four weeks a claimant may be required to take a job below his highest skill and earnings.

Against H. B. 611 and H. B. 612, labor offered H. B. 319 and H. B. 746, both sponsored by Representative Allison, counsel for the United Mine Workers in the State. H. B. 319 proposed an across the board increase in benefits of 50%, and the payment of benefits in case of work stoppage over a labor dispute after the sixth week of such dispute. H. B. 746 would have eliminated the experience rating provision from the Illinois Unemployment Compensation Law. In addition, although labor was not directly responsible for its introduction, labor looked with favor on S. B. 127, sponsored by Senator Butler, which provided for a system of disability unemployment insurance.

President Stipes of the State Chamber of Commerce proposed to the employer group that its program be presented directly to the legislature without intervening attempts to secure agreement with labor. As in 1947, Stipes was concerned about "going for what was right."[7] Stipes argued that even if enactment of the industry program was not possible in 1949 or 1951, independent action would give sure knowledge that there had been support for a program in which he believed. This position was not shared by other industry leaders. The IMA people, particularly, seemed to feel

7. Interview, Champaign, February 11, 1950.

that it would be much more desirable to try to negotiate with labor. Stipes attributes this difference on proposed strategy to an IMA belief that it is impossible to enact an industry program without labor agreement, a point of view that is often expressed by labor spokesmen in defending the use of the agreed bill. Ultimately, Stipes agreed to go along with the IMA, and attempt to negotiate.

John Doesburg and Paul Gorby were chief industry negotiators. In addition, industry made every attempt to have technically competent people present so that they would always be prepared to give the proper kind of information when a technical question presented itself. Stipes says that he was unwilling to participate directly because of an awareness of the fact that he might tend to be too "stand-pat" in his attitudes and would perhaps walk out on a conference rather than attempt continued negotiation if he found that labor was adopting a position that seemed impossible to him. Daniel Carmell took over Victor Olander's seat for labor and was joined by Abraham Brussell, general counsel of the State C.I.O. Industrial Union Council. Samuel Bernstein, Commissioner of Placement and Unemployment Compensation, participated for the state administration.

There appears to have been a consensus at the outset that the major points to be settled involved benefit increases and tightening of disqualifications. "We knew" said one employer association executive secretary, "that in 1949 we had to agree to an increase in rates, and this seemed like the exact moment to demand concessions on the disqualification issue." The comparable official of another "Big Five" association notes that the position of labor was stronger in 1949 than it had been in the past, that benefit increases were inevitable, but that the employers felt so strongly about disqualifications that they didn't want to discuss anything else until that issue was out of the way. Similarly, labor

representatives were determined to press for a benefit increase as their number one objective.

Carmell and Doesburg agreed early in the discussion to a tentative solution. This involved an increase in maximum benefits to $27 a week. In turn, Doesburg and Carmell were to write a joint public letter to Commissioner Bernstein urging that administrative decisions on disqualifications be made more severe. No change in the existing disqualification language was to be written into the law, however. Carmell brought this agreement back to his people who gave it their approval. When the tentative agreement was presented to the Employer Joint Executive Committee, Stipes led the fight against acceptance arguing that he could put no faith in a letter of this sort. The employer group rejected the agreement and held out for writing tighter disqualification provisions into the law. Negotiations broke down, at least temporarily, over this issue. The incident led to some tensions among the participants in that labor felt that industry was not at all clear as to where its locus of decision making power lay--in the negotiators or in the Joint Executive Committee.

Governor Stevenson, apparently concerned about a possible slowing up of his legislative program, called a meeting of the two groups in Springfield at the beginning of May and sought to impress upon them the need for agreement. At one point, the question of a benefit increase to $27 a week was raised, and some industry people responded that although they had agreed among themselves to go as high as $24 in return for disqualification concessions, they would probably be willing to go to $25 but not higher, thereby throwing out the Doesburg-Carmell agreement. Stipes, for example, indicated that he would attempt to influence the Joint Executive Committee to go to $25 if, in turn, Stevenson would use his influence to improve the disqualification feature. Stipes, at least, came away with the definite

impression that the governor thought that tighter disqualification requirements were desirable, and this buttressed Stipes' already strong feelings on the subject.

Around this same time, both sides clarified their positions. On May 4, Stipes announced that H. B. 611 and H. B. 612 represented the State Chamber's legislative program in this field. He argued that these bills "would not take away one cent of employees' benefits nor one day of the 26 weeks for which benefits can now be paid."

> The State Chamber favors unemployment compensation as an insurance program maintained for protection of those people who are out of work through no fault of their own.
>
> Unemployment compensation should not be paid to people who quit their jobs merely because of personal wishes, who leave the labor market, or who refuse to help themselves by finding work and earning a living.[8]

Although the other employer associations were seemingly content to let Stipes issue the public statements, they were consulted all along the line. Stipes' and the Chamber's leadership seems to be a function of the fact that it was from here that a definite plan was forthcoming. The Chamber was apparently alone in having a definite program. This was important in terms of leadership, but it did not at all mean that the industry group had become monolithic. Indeed, it seems possible that employer differences on tactics was a weakening force on that side. One employer representative reports that he "sat" on one of his colleagues on two different occasions because the latter charged labor with bad faith, a charge that the first man termed "untenable."

Labor restated its position with the introduction of H. B. 825 by Representative Harris. The willingness to shift from the position originally taken in the Allison bills was probably due to three principal causes. Introductory discussions had demonstrated that the earlier position

8. Illinois State Chamber of Commerce, Current Report (June, 1949).

was not sufficiently specific to be realistic; that the Allison bills were making no progress in the House Judiciary Committee. Finally, H. B. 239, originally providing for administrative changes, which might have served as a measure to which substantive changes could be grafted, had been amended in the House in such a manner as to increase the executive authority of the Commissioner of Unemployment Compensation. The State Federation charged that the amendments were "absolutely meaningless", and indicated that it was opposed to "giving anyone except the State Director of Labor executive authority in the administration of such an important law as the Unemployment Compensation Act."[9]

Harris' bill incorporated the proposed amendments of the State Federation of Labor.[10] It extended coverage to employers of one or more, increased maximum benefits to $35, established an allowance of $5 for each dependent, eliminated the one week waiting period, reduced the penalty period of disqualification for voluntary quits and refusal of suitable work, eliminated the prohibition on benefit payments to strikers, and repealed the experience rating provision.

Following the tentative introductory discussions, all of the pending bills were referred to a subcommittee of the House Judiciary Committee. The five man subcommittee included Representative Karber as chairman, and Representatives Ferguson, Stengel, Horsley and Arrington. The subcommittee held a series of hearings on May 4, 11, and 18 to which industry and labor spokesmen were invited. Paul Gorby testified on the 4th and the 11th, while Leonard Stiegel, an industry member of the Unemployment Compensation Advisory Board and Chairman of the State Chamber of Commerce's Social Security Committee, testified on the 11th and again on the 18th, "representing all employers' organizations."[11] Daniel Carmell testified for organized labor

9. News Letter, Vol. XXXV, No. 2 (April 9, 1949).
10. Ibid., No. 5 (April 30, 1949).
11. Current Report (June, 1949).

at the hearing on May 11. At that time, Governor Stevenson was said to have reaffirmed his interest in having a "satisfactory" bill enacted. The State Federation of Labor still felt that "there is some hope for a compromise which will satisfy both [labor and employers]."[12] In view of subsequent developments, the use of the word "compromise" rather than "agreement" is of particular interest.

The State Chamber's Legislative and Social Security Committees met in joint session in Springfield on May 17 to discuss progress. At that time, it was decided to intensify the push for passage of H. B. 611 and H. B. 612. Accordingly, a special one page supplement to the Chamber's legislative bulletin, Springfield Scene, was issued on May 21. The supplement reproduced two editorials from The Chicago Journal of Commerce, dated May 12 and May 13, in which that publication reviewed the unemployment compensation situation and concluded that "Every Illinois employer and every honest Illinois employee should support H. B. 611", and that "House Bills 611 and 612 are, we believe, in the public interest. They should become law." An accompanying letter, reproduced adjacent to the editorials described them as "typical of much newspaper comment in past weeks. They give convincing arguments for passage of these 2 bills." State Chamber members were "again" urged "to see your legislators and tell them of the need for better U. C. legislation."

It was apparently becoming manifest by this time that labor and industry positions were "simply not reconcilable despite the fact that sincerity abounded on both sides and that there was honest and decent conversation."[13] State administration leaders determined on a final attempt to secure agreement. Representatives of labor and employers were called into

12. News Letter Vol. XXXV, No. 7 (May 14, 1949).
13. Paul Gorby, interview, Chicago, March 16, 1950.

a conference at the Abraham Lincoln Hotel in Springfield on May 25. Although labor was apparently willing to make concessions in the disqualification area, no agreement was reached. "The provisions of House Bills Nos. 611 and 612 were so objectionable and provoked so much dissension that the representatives of labor decided to leave the conference."[14]

Labor's final position, as expressed at this conference, included an increase in maximum benefits to $25 a week. On the disqualification issue, labor was willing to accept disqualification of women who quit work to marry, of pregnant women, of individuals who quit because of domestic circumstances, of workers who remove to an area where job opportunities are less favorable. In addition, labor acquiesced in a requirement that availability for work be considered in terms of whether the worker is actively seeking work, and in a change in base period earnings requirements from $225 to $300. Finally, labor agreed to a change in the employer tax rate from the existing scale of ½% to 3.6% to a scale of ¼% to 2.7% and offered to accept a six week penalty period for voluntary quits, refusal of suitable work and discharge for misconduct.[15] The existing law provided for a flexible four to eight week disqualification period.

The conference broke up on industry's insistence on an earnings requirement following voluntary quits, refusal of suitable work, and discharge for misconduct.[16] The point may be illustrated by considering the case of an individual who leaves work "without good cause." Under labor's proposal, he would be penalized by a six week disqualification period before he might secure unemployment compensation. Under industry's plan, he would be required to secure employment and earn wages equal to eight times his weekly benefit amount before becoming eligible for benefits.

14. News Letter, Vol. XXXV, No. 9 (May 28, 1949)
15. Ibid.
16. Ibid.

Almost certainly, the labor representatives were influenced in their stand by the unceasing campaign that Victor Olander had waged for establishment of the principle that freedom to leave employment is as important as freedom from involuntary servitude.[17]

Although representatives of the State Labor Department were still hopeful that some satisfactory agreement might be reached, labor and industry were pessimistic about the chances for agreement after the May 25 stalemate. This pessimism was apparently shared by the House Judiciary subcommittee which proceeded to establish "what it considered a fair compromise between the positions taken by the labor and industry groups, and drafted its own bill, which was introduced as H. B. 1105."[18] The subcommittee bill, in almost every respect, corresponded to the final labor offer of May 25. In providing for a six week penalty period for voluntary quits, discharge for misconduct, or refusal of suitable work, the bill did not meet industry's proposal that re-employment be a prerequisite for claiming benefits after this type of separation.

H. B. 1105 was introduced on June 8, passed the House on June 17, and passed the Senate on June 24. It was not an "agreed" bill.[19] On the other hand, it was a bill which both interest groups agreed not to oppose. Labor and industry leaders both carefully term this a "compromise" bill rather than an "agreed" bill. The essential distinction would seem to lie in the fact that an "agreed" bill will be actively supported by both parties, while a "compromise" bill will not be opposed by either party. The "compromise" bill of 1949 represented a completely new kind of development in the formation of Illinois unemployment compensation legislation.

17. A discussion of the history of this question including Olander's position and activities may be found in Howard D. Hamilton, "Legislative and Judicial History of the Thirteenth Amendment" (Unpublished Ph.D. thesis, University of Illinois, 1950).
18. Illinois Labor Bulletin, Vol. X, No. 1 (July, 1949), p. 5.
19. News Letter, Vol. XXXV, No. 13 (June 25, 1949). Springfield Scene (July 22, 1949).

CONCLUSIONS AND HYPOTHESES

1.

Two general observations are in order prior to a summary analysis of the use of the agreed bill in the formation of Illinois unemployment compensation legislation. First, the maintenance of the status quo is disadvantageous to labor in the area of so-called protective labor legislation where increased benefits and extended coverage are usually the major goals. Thus, labor must frequently consider it a defeat if no policy change is enacted by the legislature. Second, the legislative process in Illinois is so set up by virtue of the 1870 consitution as to discourage the enactment of legislation. The constitutional requirement that all bills must be passed by a majority of the elected members of each house establishes a situation wherein, in effect, a legislator who does not vote is helping to defeat the proposed legislation just as surely as if he were voting in the negative. The constitutional majority requirement appears to be a strong argument in favor of the use of the agreed bill in that 77 votes in the House and 26 votes in the Senate are not otherwise easily obtainable. This point was emphasized by the State C.I.O. in its semi-public dispute of 1949 with State Federation leaders on the subject of a Constitutional Convention for the State. One C.I.O.-P.A.C. leader, in arguing publicly with a top State Federation figure, charged that the State Federation called the agreed bill a necessary expedient in view of the constitutional situation but, at the same time, deliberately helped to perpetuate the agreed bill by its opposition to the framing of a new Illinois constitution. The State C.I.O., according to another official, would like to meet the situation by modernizing the constitution and then reappraising the use of the agreed bill technique. In this manner, it is argued, it will be possible to assess the value of the agreed bill as an independent technique. Leaders

of the Federation, on the other hand, argue that the overall dangers to existing labor legislation involved in revising the Constitution are too great to permit experimentation, and that if the existing situation is a kind of pressure for the use of the agreed bill, the situation is not a bad one. "After all," said a Federation negotiator, "we have done well." Contrariwise, his C.I.O. prototype suggested that the C.I.O. goes along because its position in the state is not strong enough to permit it to demand independent action. The implication is left that a constitutional change, and an increase in C.I.O. strength, may well be productive of a change in C.I.O. technique.

Some generalizations may be made about the content of unemployment compensation legislation achieved through the use of the agreed bill technique. Pending a study of the development of policy in this field in a comparable state where joint conferences are not utilized, it would not seem possible to render conclusions on the comparative effect of the agreed technique. In Illinois, however, the use of the agreed bill has been accompanied by a steady development of the law. Given a basic situation where there is reason to believe that amendment of the law might have been withstood (at least temporarily), the picture instead is of a law which has pretty well kept pace with unemployment compensation laws of other states. This has been true most notably in those areas which seem to be a function of changing economic conditions. Thus, changes in benefit amount and duration, for example, have been easy subjects for agreement.

On the other hand, a clue as to the maximum utility of the agreed bill may be found in comparing the standards of other forward states with those of Illinois. The most critical standards in the unemployment compensation field would seem to include criteria governing such things as coverage, compensation payments during periods of temporary disability and a fair

disqualification formula. Illinois has lagged in these areas.

If it is true that labor agreement is related to a belief that the agreed bill guarantees some progress where otherwise there might be no progress, a question remains as to the rationale for industry agreement. One of the points most consistently enunciated by some industry leaders is that there has come to be a belief in the principle of unemployment compensation. A typical comment was that compensation for involuntary unemployment tends to keep a man in the labor force and therefore available for work when business conditions warrant expansion, whereas ignoring the unemployed must work to industry's detriment through a lowered morale and possible loss of labor by removal from the area or transfer to a different industry. Most spokesmen went beyond the self-interest argument and indicated a strong belief in the humanitarian aspects of a compensation program. The important fact to be drawn from this is that there seems to be an acceptance of the desirability of some program. Manifestly, this decision implies a willingness to pay compensation at a rate and for such duration as will meet the basic objective of the maintenance of stability, a rate and duration which must necessarily vary with economic conditions.

There is no evidence, however, that management has gone beyond this basic decision. Moreover, it is very likely true that the decision is a consequence of management's perception of the demands of articulate public opinion. Indeed, one labor figure notes that "they might just as well agree because we could get that much anyhow, and they know it. But they know, too, and so do we that it would require a blazing fight which would leave scars. Neither side sees any point to that."

There appears in general to be confirmation for the hypothesis that labor and industry agree on a legislative proposal in the U.C. field because each party considers that sooner or later, the legislation is going

through anyway. Beyond this, labor agrees because it probably considers itself the weaker party in the legislature[1] and on the basis of experience and lack of inclination to fight feels that by agreement it will obtain no less than it might through independent action and perhaps a little more. Employers, perceiving too that the legislation is going to be enacted, seem to be anxious to agree so as to maintain stability in the law, and so as to insure that fundamental policy changes will not be made without its influence over the terms of these changes being felt. This type of analysis leads to a tentative generalization about agreed bills: labor-industry agreement would appear to be a practical method of establishing legislative policy in those areas of labor legislation where the two parties accept the desirability of the philosophy which the legislation is designed to implement.

If this can be achieved, it appears that the agreed bill offers a tool whereby the two major groups most directly affected by public policy in this field may be able to establish a range of standards acceptable to both and may be able to develop legislation which bears the mark of expertise.

In recapitulating the nature of the agreements on unemployment compensation that have been reached since 1937, and adding thereto a consideration of the 1947 and 1949 experiences, some phases of agreement stand out prominently. It was originally hypothesized that benefit amount and duration, eligibility and disqualifications, and waiting periods were subjects of short-run disagreement susceptible to agreement, but that assumption of costs, merit rating provisions and disability compensation were matters of long-run disagreement and opposition which do not lend themselves to an agreed bill. A test of this hypothesis against the evidence suggests that only phases of it have been sustained.

1. This is not meant to suggest that labor necessarily considers itself the weaker party in any broad political sense, but rather that as a consequence of the constitutional majority requirement and of inequitable apportionment, it is at a practical disadvantage, an institutional disadvantage which it is not yet strong enough to combat.

With the acceptance of the unemployment compensation principle, the question of the amount of a weekly benefit to be paid a qualified claimant has nearly always been easily resolved. Although it appears likely that labor and industry reached overlapping limits through different processes, no general agreement has been endangered or even delayed because of the benefit amount question. Moreover, the prognosis seems good as long as the determinants of benefit amount include cost of living and experiences of other states as they have in the past. Although these are not factors which lend themselves to exact determination, they furnish an indication of the general trend from which an exact figure can be established depending, among other things, on concessions by one side or the other on issues. The question of duration of benefits is of much the same order, except that there seems to be a feeling on the part of some industry and labor leaders that the present 26 week period represents a fair maximum for some time to come. Again, the establishment of a waiting period prior to the payment of benefits has never been a hard core point of disagreement. Labor has pushed, fairly consistently and fairly successfully, for a lessening of the waiting period, and there has been a minimum of opposition from industry. The present one week period, reached through agreement, appears satisfactory to both sides.

Inclusion of coverage and disqualification questions in the "susceptible to an agreed bill" category is an hypothesis that does not seem to be sustained. As early as 1941, an apparent agreement was reached dealing with extension of coverage to employers of one or more employees. It will be remembered, however, that this section of the bill was deleted in the House after being sustained in the Senate by only two votes. Again, in 1945, the employers agreed not to oppose extended coverage, but this was once more lost in the legislature. Although the observer cannot be aware of the multitudinous informal arrangements concluded in the course of the

legislative process, it does seem apparent that some segment of industry, at least, was opposing the extension agreed to by top leadership. Since 1945, labor's efforts to extend coverage through amendment of the state law seem to have slackened, and one labor leader admits that he sees little hope of achieving extension except through federalization of the unemployment compensation program. Extended coverage is the sole point in the history of the Illinois law on which a formal agreement had seemingly been reached only to be rejected by the legislature. This would seem to suggest that real agreement, in the sense of positive political action from both sides, was lacking. In any event, considering the fact that all other agreements went unscathed in the legislature, and that on at least one occasion agreement on this issue took the form of willingness not to disagree, it appears that to be meaningful, an agreed bill must have active support from all parties to the agreement. Moreover, the action of industry representatives in 1945--in withholding positive support for extended coverage because of some doubt as to how representative they really were--suggests that the broader the basis of representation the more likely is an agreed bill to succeed.

In the related area of disqualifications, agreement has been even further from achievement. Particularly in recent years, the industry group has fought hard for tighter disqualification provisions. Labor has opposed change with equal vigor and, fairly clearly, it was labor opposition to industry demands in the disqualification area that made agreement impossible in 1947 and again in 1949. Who shall be paid unemployment compensation has been a much more controversial question in Illinois than how much shall be paid or how long shall payments be made.

This conclusion leads naturally into a consideration of the second phase of the hypothesis: that questions of cost assumption, merit rating and disability payments are matters of long-run opposition which do not

lend themselves to an agreed bill. Again, only a part of this hypothesis appears to be sustained. Disability benefit payments have not even reached the point of discussion in labor-industry conferences on unemployment compensation legislation. "We would be willing to talk with labor about this question," said an industry leader, "as a matter of fact, we would not only talk, we would holler our heads off--but we wouldn't agree." The peculiar position of disability benefits was further emphasized in the 1949 session when a bill providing for such payments was sponsored by Senator Butler who has never been a spokesman for either industry or labor, and who believed himself to be acting out of an independent judgment. In almost all other cases where an issue appeared too controversial for agreement, either labor or industry arranged for sponsorship by one of their spokesmen in the legislature. This has been the case in recent years in the extended coverage area. It seems likely that if disability benefits are to be incorporated in the Illinois law, the major impetus will be forthcoming from a combination of labor strength with tangential strength in perhaps the same manner that the combination of industry strength and tangential strength killed extended coverage. It is significant, too, to observe that disability benefits fall into the category of who shall be paid, thereby adding strength to the conclusion that this is the major controversial question in the field in Illinois.

Assumption of costs of the unemployment compensation program seems to have become a dead issue in Illinois. Since the initial negotiations in 1937, there has been no serious attention paid to the possibility of broadening the contributory base so as to include employees. This question does not seem to be one on which a determination can be made as to whether or not it falls within the scope of an agreed bill. The facts are that it simply has not been a problem for potential legislative action.

Finally, the merit rating question is perhaps the most elusive. Merit rating has not been a subject of labor-industry agreement since the first negotiations of 1937 and the revision of 1939. Labor, from time to time, has proposed elimination of this feature, but there is some evidence to suggest that this may have been something of a bargaining tactic designed to compel concessions on other points. Employer leaders insist that this is a hard core point on which agreement is impossible because the only practical change would be elimination--to which industry would steadfastly refuse to subscribe. The merit rating question, all in all, seems to fall somewhere between the area of "no problem" and that of "hard core disagreement."

The rough continuum established here between agreement issues and non-agreement issues assumes major significance when it is related to current issues in unemployment compensation. The latter tend to appear at the non-agreement end of the scale, for they include such items as disability compensation, payments to strikers, and disqualification provisions including suitable work, voluntary quits and availability for work in the state. The chairman of the Advisory Board made a special point of noting that the issues have come more and more to be matters of philosophical disagreement rather than specific agreement. Ultimately, it is possible to agree on whether total unemployment should be compensated with $23 or $27, but it is not so easy to agree on whether compensation should be made available to individuals who winter in Florida arguing that employment is more plentiful there than in Illinois. Moreover, on issues of this type, the experiences of other states are less likely to be binding in that the question is less one of careful economic computation as it sometimes tends to be with benefit amounts, and more one of moral judgments which Illinois leaders insist on making for themselves.

2.

A consideration of the mechanics of formulating legislation through the agreed bill process involves initially a consideration of the role of the Unemployment Compensation Advisory Board. The legal basis for the existence of the Board is found in the Civil Administrative Code which simply provides for the establishment of a board of nine members. In practice, this has become a tripartite board, and an industry member, Bertram J. Cahn, has been its only chairman. Members serve without compensation, but are reimbursed for necessary expenditures.

Labor and employer leaders alike tend to argue that the very existence of the Board is the strongest possible pressure for agreement. An experienced industry leader calls it "the base and source for agreement," while other influential participants in the agreed bill process suggest that it is likely that without the statutory existence of the Board there would be no agreed bills. A somewhat more penetrating argument was advanced by one source who suggested that without the Advisory Board, the agreed bill process would be "transformed too easily into a political football to be utilized when an administration found it advantageous and to be suppressed when an administration found it embarrassing for any reason."

It is a fact that the membership of the Board has been relatively untouched by the shifts in political power in the state. The chairman, appointed originally by Governor Horner, a Democrat, served through Dwight Green's administration, and remained in office under Governor Stevenson. Indeed, Mr. Cahn points to this with some pride and considers his uninterrupted service to be "an indication of the non-political character" of the activities of the Board. Again, Victor Olander for labor and Samuel Carson for industry, among others, have served irrespective of the politics of the state. In this respect, the Board has been non-partisan, perhaps almost "unpartisan" in character.

Of a different order, however, is the fact that from no quarter is there any assertion that the Advisory Board has actually been a factor in creating agreement. Rather, there seems to be a belief that the Advisory Board represents a suggestion by the legislature that agreement would be desirable, and a further belief that the Advisory Board is the mechanism though which agreement should be presented to the legislature.

This point of view is shared explicitly by an experienced state administrator who is close to legislative developments in the unemployment compensation field. This official says that the Board does none of the actual negotiating on the terms of unemployment compensation policy. He feels that they have no understanding either of the necessary technical detail involved in this kind of law or of the collective bargaining techniques utilized in labor-management discussions. Advisory Board membership is primarily a function of prestige, and secondarily a function of competence in the field. Tripartite representation on the board, concludes the administrator, enables it to serve as an admirable "front" for the presentation of agreements made elsewhere. Industry representatives have been described by one of their own number as "parrots" for the industry Joint Technical and Joint Executive Committees.

The Advisory Board as established in the Civil Administrative Code was given no specific functions and duties. Partially as a consequence of this fact, it tended to develop into the kind of a board which receives reports and accepts them--which acts for the most part ex post facto and finds that it conducts inquests rather than inquiries. It is not, however, simply the general duties of the Board which tended to remove it from the real power situation and the real decision-making process. Some of the choice of personnel almost seemed consciously directed toward making the board a "front" rather than the locus of power. Although the choice of

labor representation on the Board is not liable to this criticism, industry representatives have not been in possession of decision-making powers. While William MacPherson had primary responsibility on the industry side for conducting an agreed bill, he never sat on the Advisory Board.

One of the possible virtues of the use of the agreed bill process would appear to be the fact that responsibility might be more easily focused through this method than through ordinary legislative enactment. The general public can know that introductory decisions on unemployment compensation policy are made preeminently by the "Big Five" and by its labor prototypes all acting through their acknowledged representatives, and subject to legislative approval. Manifestly, it is somewhat impractical to attempt to offer suggestions or criticisms to the organizations as such. This appears analagous to petitioning the legislature without paying attention to formal and informal leadership structure. If, however, responsibility for decisions were combined with formal appointment to a power position, this difficulty would be obviated. The conclusion suggests the desirability from the point of view of the general public of vesting real authority in the Advisory Board through the appointment of personnel who are endowed by their organizations with decision-making power. In effect, this involves the fusing of authority with what has appeared to be responsibility.

Connected with this is a second point dealing with the composition of the Advisory Board. Partially, perhaps, because of the indefiniteness of the role of the Board, it appears that its tripartite character has served no particularly useful function. So long as the Board does not have a real decision-making role, the public members do nothing more than lend their names to a pre-determined report. They do not persuade, compromise, or offer alternative solutions, functions which were of considerable importance in the tripartite organization of the National War Labor Board, for example. Moreover, insofar as decisions are not made by the Advisory Board, the public

members have no opportunity to function as one member of the Illinois legislature hopes they might, "as a jury, or a little legislature smoothing the path and easing the burden of the legislature." Advisory Board reports up to this time have been unanimous, and have been directly related to the ability of labor and management leaders to agree on substantive changes quite independent of the existence of the Board. Indeed, it will be remembered that in 1947, Chairman Cahn opposed calling a meeting of his Board while labor and employer representatives were unable to agree, and that in neither that year nor in 1949 did the Board meet. In neither of those years was there an agreed bill.

All in all, it appears that by establishing the Advisory Board the legislature, insofar as the parties involved perceive the situation, was urging that the agreed process be utilized and that the interests of others beside labor and industry were to be considered. If the intent of the statute, however, was to make the Board a meaningful power force, that end has not been achieved. In turn, this seems to have vitiated any potentially desirable and influential role of the public members of the board.

In establishing the framework for this investigation, consideration was given to the role of the legislator, the political party, and the administrator in the agreed bill process. Primary interest was centered not so much on what is done by these forces as on why their attitudes and actions in dealing with agreed bills are as they are. Thus, it was hypothesized that the legislative path of an agreed bill is easier when there has been legislative participation in the agreement than when negotiations are conducted quite independent of the legislature. This hypothesis was based on the assumption that the legislature is anxious to retain a sense of public responsibility and yet develop the widest possible support for any program it enacts.

It does not seem to be true that participation by the legislature

in the negoatiations leading to an agreed bill through a committee or subcommittee has made the likelihood of a successful agreed bill any greater. On the other hand, this in no way suggests that the absence of legislative participation would make no difference. Rather, legislative participation seems not to be a positive determinant of success. Nonetheless, labor and management people take infinite pains to avoid any possible feeling on the part of the legislature that it is being "frozen out." A labor attorney who has been important in negotiations made a particular point of the fact that "Labor requires that a joint legislative subcommittee sponsor the meetings so that labor cannot be accused of telling the legislature what to do." Industry people adopt much the same point of view. Even with legislative participation in preliminary activities, however, a successful agreed bill is not guaranteed as may be demonstrated by the two attempts to extend coverage through an agreed bill, both of which were aborted in the legislature. Nor was legislative participation able to effect an agreement in 1947 or in 1949. If an agreement is feasible, it is probably desirable to have legislative participation, but the legislative participation does not mean that an agreement will be feasible.

Members of the legislature, in talking frankly about the use of agreed bills, admit the desirability of the process as a method of avoiding antagonisms. A State Senator argues, for example, that on this level he would wholeheartedly support any agreed bill which he was convinced was really agreed to by all parties concerned. "There is no value, however, in giving blind support to an agreed bill which only part of labor or part of industry supports," he said, "because this leaves the legislator open to attack and he derives no political advantage." Other members of the legislature suggest that they welcome the opportunity to avoid becoming embroiled in a controversy over labor legislation, describing this field as a "hot potato."

Another consideration advanced by some legislators is that it is not possible for a state legislator with his limited time and even more limited research facilities to familiarize himself with the consequences of alternate lines of policy in such a complicated field as unemployment compensation. A member of the Illinois House of Representatives with a statewide reputation for sincerity and competence says without reservation that "in no other area of public policy is the span of legislative ignorance as great as in unemployment compensation and workmen's compensation." Interestingly enough, however, nearly all legislators who made a point of the issue of complexity themselves suggested that this may be a rationalization because of possible undesirable connotations flowing from the use of the agreed bill as a political aid. In developing this further, a House member noted that the services of the Research Department of the Legislative Council were available if information were really desired.

Nonetheless, members of the legislature insist that there is no such thing as automatic acceptance of an agreed bill, and this appears to be sustained by the evidence, notably the extended coverage issue. The Majority Whip of the State Senate, urging direct quotation, stated "I do admit that legislative activity is curtailed and influenced by an agreement between the parties, but I specifically deny that there is a complete legislative surrender." In noting that, very frequently, agreed bills move through the legislature in a very brief time, it should be remembered that the chief source of delay in the legislative process is usually time consumed in attempts to hear the views of those groups most directly affected by the proposed legislation. Insofar as an agreed bill makes this unnecessary, the fact of speedy legislative action should not be considered an indication of any abdication of the legislative function.

A final crucial question in this area has to do with whether the legislature properly safeguards the interest of groups other than labor and

management in subscribing to an agreed bill. That is to say, does the use of an agreed bill process furnish adequate safeguards against the possibility that labor and employers may together act in a manner inimical to the interests of the rest of society? Prior to a consideration of relative legislative awareness of this problem, however, it should be noted that in a very real sense this is something of a manufactured issue in the unemployment compensation field. The issues in this area of labor legislation seem to be such that labor and employers have adversary interests thereby tending to minimize the possibility of collusion and maximize the likelihood of each party serving as a check on the other. Stated differently, this suggests that labor and industry tend to set internal limits on each other, the result of which is to set up that type of balance which diminishes the need for protective action by tangential groups--groups with an indirect rather than a direct interest in the results of labor-management interrelationships.

Beyond this, however, there are indications that the legislature is not unaware of at least a potential need to protect tangetial groups from the results either of collusion or of that kind of non-balance which may compel either labor or industry to agree to a measure about which it has reservations. Moreover, participants in the agreed process are themselves aware of this legislative function. One top industry figure notes that he feels that if labor and management can come to an agreement, it is incumbent upon them to offer it to the legislature, "but that the legislature has an obligation which may not be delegated to study the problem independently with a view to the general welfare." Another man in a similar position likens the function of the legislature in the agreed process to a jury which must make a decision in the best interest of society as well as afford justice to the parties involved, an analogy which was also used, interestingly enough, by a labor leader. Members of the legislature, in talking of affording protection to tangential groups, emphasize the notion that although they often

raise little question about the substance of an agreed bill, considerable attention is devoted to examining the source of agreement, particularly a determination of whether representatives for each side have consulted with leaders of tangential groups. "I believe," said a State Senator, "that in the unemployment compensation field, an agreed bill is achieved by participation of no less than 95% of the various groups affected by the law."

Companion hypotheses were established at the outset dealing with the role of the political party and the administrator in the agreed bill process. It was tentatively generalized that the governor, acting as party leader, will exert all possible influence for agreement and will tend to claim the results as a party achievement. Perhaps no other point becomes so clear in considering agreed bills in unemployment compensation as the idea that the political party is almost completely by-passed, that party lines are ignored, and that frequently the consequences of one agreement are largely to eliminate unemployment compensation issues from party policy at ensuing elections. "We don't test legislators by their votes on unemployment compensation issues, and we don't test party platforms by their stands on unemployment compensation legislation," said a labor leader, "because we know that this issue will be settled outside of party caucuses." Gubernatorial efforts, since Governor Horner's 1937 conference, appear to have been directed toward encouraging agreement, although there is no indication that the incumbent has used the results of an agreed bill as a campaign issue. Rather, the agreed bill fits into the larger picture in that it allows for no prolonged wrangling which might tend to slow up the overall legislative program of the governor. The Illinois legislature is practically compelled to adjourn its biennial session on June 30, and necessary business conducted in a minimum amount of legislative time permits that much more time to be devoted to other phases of a gubernatorial program.

Those who are charged with the administration of this program seem more concerned about maintaining the agreed bill process than do the formal policy makers. A highly placed administrative official advances a threefold rationale for his department's continuous interest in the success of agreed bill conferences: 1. Continuity in administration. This involves the notion that administrative participation in agreed conferences furnishes some degree of assurance that amendments to the law will be forthcoming, at least partially, from the administrative group most intimately concerned with carrying out day to day problems. 2. A greater clarity in legislation. This was tied to the complexities of the unemployment compensation problem, and the fact that independent legislative action may sometimes produce a remedy that the legislature really didn't intend or a confusion that the legislature is unable to foresee. This was illustrated by a measure passed in 1947 dealing with exemptions under the law for certain types of salesmen. The ambiguity of this statute is such that the Unemployment Compensation Division is unable to determine legislative intent as to which types of salesmen are to be exempted. "If it is understood that all unemployment compensation amendments are to come about as a consequence of agreed bills," said the administrator, "this sort of thing becomes impossible and saves us innumerable headaches." 3. The elimination of radical changes in the law as a consequence of shifts in political power. This is tied back to the idea of continuity in administration, and the administrator's feeling that the law should be a consequence of what the actual participants and beneficiaries feel is desirable rather than what seems politically beneficial to either the Democrats or Republicans. It should be noted here that the Illinois Unemployment Compensation Division, which enjoys a high degree of confidence from both labor and management groups, has been relatively unaffected by political shifts.

The relationship between the agreed bill and the judicial branch

of government is worthy of some consideration. Although no explicit hypothesis was developed on this subject, the facts tend to suggest that an agreed bill is less likely to be overthrown by the courts than is a bill which was not the result of agreement. Indeed, this appears to be a belief strongly held by the legal leadership of the State Federation of Labor, at least. Federation representatives emphasize the 1935 experience when the Occupational Diseases Act was declared unconstitutional after twenty-five years of sustained constitutionality, and the 1940 experience when the prevailing wage law was declared unconstitutional shortly after its enactment over industry opposition. On the other hand, a prominent labor attorney notes that "no active labor legislation agreed on by employer and employee groups has ever been declared unconstitutional by the Illinois Supreme Court. The courts always know the legislative histories of those acts--somehow they manage to get the knowledge. I think that the success of these agreed bills in the courts is largely due to the fact that you don't get responsible employer groups challenging constitutionality, and we have no trouble handling irresponsible challenges." This same attorney adds that on at least one occasion he was asked by the court whether the bill under consideration was an agreed measure, and that his affirmative answer produced a positive reaction from what had seemed to be an unfriendly court. Be that as it may, no question of constitutionality of an agreed bill in the unemployment compensafield has become a serious issue in Illinois. The notion that responsible employer groups, notably the "Big Five", will not challenge agreed measures is, moreover, confirmed by management leaders.

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